

FILED

HC-001

Name: DENNIS ROY PETERSON
 Address: P-92157 E21-D105-4L
Mule Creek State Prison
P.O. Box 409090
IDONE, CA 95640

CDCR or ID Number: P-92157

THIRD APPELLANT DISTRICT COURT
501 I STREET
SACRAMENTO, CA 95814

(Court)

<u>PETERSON</u>	
Petitioner	
v.	
<u>THIRD APPELLANT DISTRICT</u>	
Respondent	
<u>COURT</u>	

PETITION FOR WRIT OF HABEAS CORPUSNo. 2:24-cv-3103 EFB(HC)

(To be supplied by the Clerk of the Court)

INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction or sentence and are filing this petition in the superior court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the superior court, you should file it in the county in which you are confined.

- Read the entire form before answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the superior court, you only need to file the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original of the petition and one set of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and 10 copies of the petition and, if separately bound, an original and 2 copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.

Approved by the Judicial Council of California for use under rules 4.551 (as amended January 1, 2024) and 8.380 (as amended January 1, 2020) of the California Rules of Court. Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

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HONORABLE JUDGE
THIRD APPELLANT DISTRICT
501 I STREET
SACRAMENTO CA 95814

1 Petition to review this case

2 this comes down to the DA pulling a fast one by telling the
 3 court my third strike was for a sexually violent crime and a
 4 Ineffective Assistance of Counsel. I went back to court for
 5 SB 67.5(b) and PC 1172.75 a invalid sentence. I had two strikes,
 6 one in 1975 and one in 1985. They were strikes in 2000 not enhancements.
 7 At re-sentencing the DA continued to say they were enhancements.
 8 The DA took count ten of my second strike 1985 Domestic Violence case
 9 and further mislead the court by saying it was what the court in 2000 gave
 10 me as my third strike. All to stop me from being re-sentenced under SB-
 11 H83 and PC 1172.75. The DA even went to extremes and told the court he
 12 wanted to add to my sentence a Habitual Criminal charge to make sure the
 13 Judge would not re-sentence me and let me go home after 22 years in
 14 prison for sales of \$40.00 of cocaine a felony which triggered my
 15 third strike. The Judge in that case failed to do his job. He did not do
 16 any fact finding to see if what the DA Presented to him was true or
 17 incorrect. nor did my Public Defender object or do any fact finding.
 18 Heres my argument by its plain terms Pen. Code. 1172.75 requires a
 19 full re-sentencing not merely that the trial court strike the newly
 20 invalid sentence. 1172.75 subd.(d)(1) creates a presumption that the
 21 re-sentencing shall result in a lesser sentence than the one originally
 22 imposed (not have more charges added to my sentence). 1172.75 Subd.
 23 (d)(3) expressly requires the court to consider post conviction factors
 24 including evidence that reflects that circumstances have changed since
 25 the original sentencing (which never happened). and 1172.75 subd.
 26 (d)(4) guides the trial court in selecting among the lower,
 27 middle and upper terms on each count which the DA dis-
 28 regarded my 22 years in prison and wanted me to never

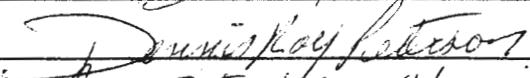
I

Page Number

1 get out for \$40.00 cocaine or any of the 10 years of
 2 rehabilitation and getting my G.E.D and 21 units college.
 3 Both the DA and the court dismissed everything 1172.75 stands for
 4 why because they can and for my past crimes they want me to keep
 5 paying for that are 38 and 49 years ago (today). According to
 6 People v. Fritz my strikes were before 1986 yes I just made it under
 7 the wire so my charges at that time are only strikes not enhancements
 8 That's why Placer county court tried me as a three striker to give me as much
 9 time as they could because I didn't live in there county and now they
 10 want to walk it back and say they gave me enhancements (why they screw'd up)
 11 They didn't give me two five year priors in 2000 or enhancements
 12 They gave me two strikes and elected to go with life and sales of
 13 cocaine was a felony and triggered my third strike in 2000. It's
 14 clear in People v. Fritz I should be resentenced for invalid 667.5(b)
 15 They can't give me the upper term it still puts me out of prison because my
 16 1975 case is a strike and my 1985 case is a strike 1172.75 is enhancements
 17 which I don't have under People v. Fritz. My sales of cocaine is no longer
 18 a felony. My M.E.P.D. was 2021 I worked my sentence down
 19 with Groups, Education G.E.D and college. I have a few it's because
 20 inmates hate sex offenders and I had to defend myself against hateful
 21 inmates. Now ineffective Assistance of Counsel. The Public Defender
 22 failed to represent me to the fullest. He failed to fully inform me of my
 23 rights. He sent one note on scratch paper. He did not do what I told
 24 him in a letter not to let the DA change my sentence other than 1172.75
 25 resentencing to reduce my sentence not enhance it to habitual criminal
 26 my Public Defender sided with the DA see transcripts date (2022) He requested
 27 a minute order to change my sentence with CCR so they wouldn't
 28 send me back to court for 667.5(b) invalid sentence. Because they two

1 it was, and that's why CNA sent me for re-sentencing. It was a
 2 non-violent crime. The minute order made sure I couldn't get out of prison
 3 at that time and CNA wouldn't send me back to court. Finally my Public
 4 defender failed to do any fact finding at all. He let me down.
 5 He just agreed with the DA and wasn't defending me at all. He
 6 did not stop there hearing when the DA wanted to add habitual criminal
 7 to keep me in prison. He didn't contact me and ask me anything I
 8 would of stopped the hearing. I would of told him to bring me to court. I
 9 suffered Covid 19 and could not travel at that time. But I expected
 10 the Public Defender to fight for me not screw me. So today I pray this court
 11 see through the bull dung and puts a stop to Placer County Courts
 12 screwing over inmate after inmate and in court cases, and
 13 puts a stop to them violating my 6th and 14th Amendment rights
 14 my writ is clear on all the grounds I put forth. Placer Judge just
 15 did what they been doing and said it wasn't clear in order not to agree
 16 with me or grant my writ. Judge 24 years is long enough for Salas
 17 of cocaine. This is novel and unusual punishment what is being done to
 18 me. I'm asking this court to over turn Placer County Court decision.
 19 Grant my writ and let me go home at age 70 I don't have a lot of
 20 years left 667.5(h) is a invalid sentence. Throw out the minute order
 21 which is illegal and throw out the habitual criminal charge because I went
 22 to reduce my sentence not get new charges that haven't been plea or proven by
 23 JURY OF COURT. Thank you very much and I hope I didn't write to much but
 24 this court is my hope to stop the injustice.

26 Sincerely

27 
192157 F26 D105-41

28 M.C.S.O.
310 26X40909C
Page Number 11/14 95640

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLACER

OCT 28 2024

JAKE CHATTERS
EXECUTIVE OFFICER & CLERK
Fv: J. [Signature] Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

In re Petition of Habeas Corpus of,
DENNIS ROY PETERSON,
CDCR# P-92157
Petitioner.

Cases: 62-013569A

ORDER SUMMARILY DENYING
PETITIONS FOR WRIT OF HABEAS
CORPUS

The petitioner was convicted by a jury on 7/12/2000 of possession of cocaine for sale in violation of Health and Safety Code § 11351, possession of cocaine in violation of Health and Safety Code § 11350(a), and maintaining a place where controlled substances are sold or used in violation of Health and Safety Code § 11366. The petitioner admitted nine prior strike allegations and a prior prison term allegation. The petitioner was sentenced on 8/25/2000 to 26 years to life in prison. The judgment was affirmed by the court of appeal on 7/9/2001.

On 7/29/22, the court held a hearing to determine whether the petitioner's one-year prior prison term enhancement should be dismissed pursuant to Penal Code § 1171.1 (which has been renumbered as Penal Code § 1172.75). At the hearing, the petitioner was represented an attorney from the Placer County Public Defender's Office, Brad Whatcott.

1 The People were represented by Placer County Deputy District Attorney
2 Timothy Weerts.

3 The court found that the defendant was not entitled to the relief set
4 forth in Penal Code § 1171.1 (now 1172.75) because that section, by its
5 express terms, does not apply to a prior prison term imposed for a sexually
6 violent offense. The court found that the defendant's prior prison term was
7 for a sexually violent offense.

8 The petitioner filed a petition for writ of habeas corpus on 10/3/22,
9 which alleged that the court erred in denying the petitioner's motion to
10 dismiss a prior prison term pursuant to Penal Code § 1172.75. The petition
11 was summarily denied on 10/14/22.

12 The petitioner filed another petition for writ of habeas corpus on
13 9/6/24. The court finds that the allegations in the petition lack clarity. The
14 grounds for relief in the petition are described, as follows:

15 *"ILLEGAL HEARING. Defendant did not give Public Defender
16 total authority to let the court impose an illegal motion/or
17 minute order and illegal habitual criminal charge not plead or
18 tried by a jury/court with Defendant present in court because it
is a felony to give defendant a habitual criminal charge without
Defendant present. (Due Process)."*

19
20 It is unclear to the court whether the petitioner is referring to the
21 Penal Code § 1172.75 hearing on 7/29/22 or the sentencing hearing on
22 8/25/00. Transcripts from both hearings were attached to the petition.
23 Moreover, the term "illegal habitual criminal charge not plead or tried by a
24 jury/court with Defendant present in court" is unclear to the court.

25 The petitioner bears a heavy burden to first make a prima facie
26 showing by pleading sufficient grounds for relief in the petition for writ of
27 habeas corpus. *Younan v. Caruso* (1996) 51 Cal.App.4th 401, 407; *In re*
28 *Lucas* (2004) 33 Cal.4th 682, 694; *People v. Duvall* (1995) 9 Cal.4th 464,

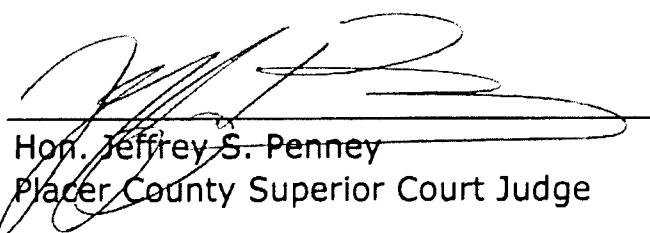
1 474. The petition should state with particularity the facts on which relief is
2 sought and include copies of reasonably available documents supporting the
3 claim. Vague or conclusory allegations are insufficient. *In re Swain* (1949)
4 34 Cal.2d 300, 304; *Duvall, supra*, at 474-475.

5 The court finds that the petition is vague and unclear. Accordingly, the
6 court finds that the petitioner has not made a prima facie showing for relief
7 and the petition is summarily denied.

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10 Date: 10/28/24


Hon. Jeffrey S. Penney
Placer County Superior Court Judge

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**SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER**

CLERK'S CERTIFICATE OF MAILING (C.C.P. §1013a(4))

Case number: 62-013569A

Case name: In Re: Dennis Roy Peterson

I, the undersigned, certify that I am the clerk of the Superior Court of California, County of Placer, and I am not a party to this case.

I mailed copies of the document(s) indicated below:

ORDER SUMMARILY DENYING PETITION FOR WRIT OF HABEAS CORPUS

True copies of the documents were mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as follows:

Placer County District Attorney
10810 Justice Center Drive, Suite 240
Roseville, CA 95678

Placer County Public Defender
3785 Placer Corporate Dr., Ste. 550
Rocklin, CA 95765

Office of the Attorney General
Writ Department
1300 I Street, Suite 1101
PO Box 944255
Sacramento, CA 94244-2560

Dennis Roy Peterson
Mule Creek State Prison
P.O. Box 409099
Ione, CA 95640

I am readily familiar with the court's business practices for collecting and processing correspondence for mailing; pursuant to those practices, the documents are delivered to

the US Postal Service
 UPS
 FedEx
 Interoffice mail - District Attorney's Office and Public Defender's Office
 Other (via email)

On October 29, 2024, Placer County, California

Dated: October 29, 2024

JAKE CHATTERS

Clerk of the Placer County Superior Court

By:

J. Perez, Deputy Clerk

Name: Dennis Roy Peterson
 Address: Mule Creek State Prison
P.O. BOX 409290
Ione, CA 95640

CDC or ID Number: P-92157

SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLACER
10820 JUSTICE CENTER DR.
ROSEVILLE, CA 95661

(Court)

<u>DENNIS ROY PETERSON</u>	PETITION FOR WRIT OF HABEAS CORPUS
Petitioner	No. <u>62-13569</u>
vs.	(To be supplied by the Clerk of the Court)
<u>THE PEOPLE OF THE STATE OF CALIFORNIA</u>	
Respondent	

INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.

- Read the entire form before answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
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- If you are filing this petition in the California Supreme Court, file the original and 10 copies of the petition and, if separately bound, an original and 2 copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court (as amended effective January 1, 2018). Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

This petition concerns:

<input type="checkbox"/> A conviction	<input type="checkbox"/> Parole
<input checked="" type="checkbox"/> A sentence	<input type="checkbox"/> Credits
<input type="checkbox"/> Jail or prison conditions	<input type="checkbox"/> Prison discipline

Other (specify): _____

1. Your name: DENNIS ROY PETERSON

2. Where are you incarcerated? MULE CREEK STATE PRISON

3. Why are you in custody? Criminal conviction Civil commitment

Answer items a through i to the best of your ability.

a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

POSS. FOR SALE OF CONTROL SUBS COCAINE,

POSS. OF CONT. SUBS. COCAINE

MAIN, PLACE FOR SALE OF CONT. SUBS.

b. Penal or other code sections: HS-11351- HS-11350a - HS-11366

c. Name and location of sentencing or committing court:

SUPERIOR COURT OF CALIFORNIA COUNTY OF PLACER

16820 JUSTICE CENTER DR.

ROSEVILLE, CA 95661

d. Case number: 62-13569

e. Date convicted or committed: Aug. 25, 2000 - 7-12-2000

f. Date sentenced: Aug. 25, 2000

g. Length of sentence: 25 YEARS TO LIFE

h. When do you expect to be released? _____

i. Were you represented by counsel in the trial court? Yes No If yes, state the attorney's name and address:

4. What was the LAST plea you entered? (Check one):

Not guilty Guilty Nolo contendere Other: _____

5. If you pleaded not guilty, what kind of trial did you have?

Jury Judge without a jury Submitted on transcript Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "The trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page 4. For additional grounds, make copies of page 4 and number the additional grounds in order.)

ILLEGAL HEARING Defendant did not give Public Defender total authority to let the court impose an illegal motion/jury minute order and illegal habitual criminal charge not heard or tried by a JURY/court with Defendant Present in court because it is a felony to give Defendant a habitual criminal charge without Defendant present.
(Due Process)

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts on which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel, you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is, who did exactly what to violate your rights at what time (when) or place (where).

The trial court didn't engage in a fact finding inquiry when DA charged his sentence to habitual criminal and tell the court his third strike was for a sexual violent crime when the DA took count 10 of his second strike and told the court he was struck out on it when his court in 2000 never entered that count into record, nor was defendant found guilty by Jury on those facts. The DA misrepresented the court only to keep defendant from being resentenced after 23 yrs in prison on a non-violent illegal sentence because the DA lied to the court. Court partial transcripts Dated April 10/2000 showing DA used count 10 of second strike and lied to the court on habitual criminal charge.

b. Supporting documents:

Attach declarations, relevant records, transcripts, or other documents supporting your claim. (See *People v. Duvall* (1995) 9 Cal. 4th 464, 474.)

Court case partial transcripts only showing sentencing - on case 62-0135694 Dated 07/14/22 and Partial transcripts Dated April 10-2000 showing Counts and page 5 showing DA took count 10 and told court it was my third strike when it was not.
case NO 62-0135694 Dated Aug, 12, 22 court case 62-135694 partial transcripts 5-9-22 Abstract of Judgement Dated Aug, 26 2000 - minute order illegal Date 7/29/22
Exhausted Appeal 602 second level Date 6-19-21 Appeal Log 05724947 First Level Appeal Date 8/8/24

c. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

United States v. Bagley (1985) Greer v. Miller (1987)
Smith v. Phillips (1982) People v. Fritz

7. Ground 2 or Ground 2 (if applicable):

Prosecutor Misconduct 14th Amendment Prosecutor Misconduct violates U.S. CONST. The prosecutor misstates or mischaracterizes the evidence or refers to facts not in evidence which he did in Defendants case. Any claim of prosecutorial misconduct must be reviewed with in the context of the entire trial. Hearing with defendant present in court if any new sentencing is to take place. It's the touchstone of due process analysis in case of alleged prosecutorial misconduct is the fairness of the trial. Hearing not the culpability of the prosecutor or to punish him. But avoidance of an unfair hearing / trial to the accused / defendant.

a. Supporting facts:

I went to court on SB-483/1172.75 resentencing and the DA turned my strikes into enhancements and made a new minute order changing my original sentence into a sentence making me a serially violent third striker when my third strike was for a non-violent third strike. The Third Appellate District dated 07/09/2021 stated my third strike was for Sales of Cocaine and denied my appeal. The language the DA used of Pen code 667(a) does not apply to defendant, he was sentenced under P.C. 667(b) illegal sentence. not 667(a) the DA changed to habitual criminal which is illegal because defendant did not give his Public Defender permission to have his sentence changed without his present in court or by a jury, this is excessively cruel and unusual punishment for the DA to tell the court Defendants third strike was count 10 of his spouse case in (1985) his second strike, when Defendant case 62-013569A never sentenced him to what the DA told the court its plain the DA lied to keep defendant from being resentenced.

b. Supporting documents:

Partial transcripts showing sentencing and (counts) case 62-013569A Date 5-9-22
 case no 62-013569A Date Aug. 12, 22 → case 62-D03569A Date 5-9-22 Abstract of Judgment
 Aug. 25, 2000 — minute order Date 7/29/22 — EXHAUSTED APPEAL 602 Date 6-19-24
 Appeal Log 0517494 FIRST LEVEL Appeal Date 2/8/24

c. Supporting cases, rules, or other authority:

(citation) People v. Fayed (2020) People v. Thomas supra, 51 Cal 4th at p. 999 unfair hearing
 Smith v. Phillips (1982) case no 62-013569A Date 10/14/22
 case no. 62-013569A Date Aug. 12, 22 → case no. 62-013569A Date 5-9-22
 Abstract of Judgment Date Aug. 25, 2000
 illegal minute order Date 7/29/22
 EXHAUSTED APPEALS 602 2/8/24 and 6/19/24

7. Ground 2 or Ground 3 (if applicable):

CALCULATION WORK SHEET Defendant went to court allowing his Public Defender to have him resentenced. But that did not happen. Defendant filed a b62 on his Calculation work sheet dated 2/27/24 it should reflect after 1yp (prior) was reduced to two strikes and time served but did not. The resentencing Transcript is illegal Date 07/26/2022 and the minute order Placer County Case # 6213569 is illegal. Defendant did not allow his Public Defender to have any part of his resentencing to change other than his illegal third strike 1172 SB48; to be dropped and Defendant resentenced to two strikes because it was before (1986) all his strikes not enhancement with time served. Defendant exhausted his Appeal ^{set} 6/19/24.

a. Supporting facts:

I file a b62 on my Calculation work sheet because I believed my 5B483 1172.75 and 667(b) would be reversed but my Public Defender mislead me and did not give me correct advise and failed to represent me to the fullest. Instead it looks like he sided with the DA according to the court transcripts dated Aug 12, 2022. Defendant exhausted his Appeal (see Appeal) CDCR told Defendant he must go to court to fix the illegal problem because they got a illegal minute order falsely saying defendants third strike wasn't for his sales of cocaine when his Abstract of Judgement date Aug 25, 2000 doesn't reflect the minute order and his court Aug 25, 2000 sentence on a non-violent third strike. The Third Appellant Court affirmed it, and The Board of Parole Confirm Defendants Third strike was not for a Sexual Violent Third strike. His Sales of cocaine activated his third strike which is non-violent and the DA doesn't have a leg to stand on when he changed my sentence and lied to the court.

Supporting documents

See Ground's 1 & 2 They are same supports documents.

b. Supporting documents:

See Grounds 1+2 They are same supporting Documents

c. Supporting cases, rules, or other authority:

7. Ground 2 or Ground 4 (if applicable):

SIXTH Amendment - Ineffective Assistance of counsel failed to properly inform Defendant what the DA was gonna present to the court. He failed to tell defendant he was gonna ask the court to make a new minute order. He failed fact finding Defendants case before the court on SB-483 and 1172.75 under 28 U.S. 2255. Defendant did not give his public defender authority to have any part of his sentence changed except the illegal SB-483 1172 for resentencing and time served and Defendant released from prison on the excessive punishment for a Non-Violent crime.

a. Supporting facts:

In the 28 U.S.C.S § 2255 context factual findings are reviewed for clear error and questions of law are reviewed de novo (which defendant never received). The question to whether a defendant's lawyer/public defender's representation violates his Sixth Amendment right to effective assistance of counsel is a mixed question of law and fact that is reviewed de novo. Defendant alleges his counsel was ineffective not asking the court to review for clear errors what the DA was presenting to the court which was false and illegal. According to 28 U.S.C.S and in violation of his Sixth Amendment right to effective assistance of counsel. Defendant's Public Defender sided with the DA on transcripts Dated Aug 12, 2022. He failed to properly advise me of my rights to come to court and to file an appeal. I never talked to him on the phone (ask him to see my letter) which if I had known I would of filed a appeal I thought he would file it so I have strong justification why I did not appeal this case. I did not trust the court or DA. A writ is my only option to clear up this case to receive a new hearing and new public defender or court appointed attorney because I don't feel the public defender's office will be fair after what happened to me. California Criminal Law Manual (CEB) § 37.1 a(b) under this section subdivision (b) of section 973 a defendant petitioning for resentencing may waive his appearance in court provided that the accusatory pleading is not amended at the resentencing and NO new trial or retrial of the individual will occur. That is what happen to defendant. The DA made a minute order making defendant a habitual criminal and the DA added a sexually violent charge to his Aug 25 2000 conviction which was Non-Violent and a part of his Aug 25, 2000 court case.

b. Supporting documents:

Campuzano v. United States (2006) Evitts v. Lucey (1985)
People v. Vivar Supra II cal 5th at page 529

People v. Hurley (2021) People v. Fritz all states before 1986

SUPPORTING DOCUMENTS

SEE GROUNDS 1+2 They are the same facts

c. Supporting cases, rules, or other authority:

Campuzano v. United States (2006) Evitts v. Lucey (1985)

People v. Vivar Supra II cal 5th at pg 529
People v. Hurley (2021)

People v. Fritz all states before 1986 no enhancements

7. Ground 2 or Ground 5 (if applicable):

WRIT OF HABEAS CORPUS on Hearing held on 7/29/22 Defendant has strong justification why he did not file an appeal because the court did not do any fact finding, on what the DA told the court. Defendants Public Defender was ineffective, Defendant never gave authority to change his sentence to habitual criminal and to make a new minute order. Defendant only gave Public Defender authority to have defendant resentenced under § 80-483 and 1172.75 which he didn't. Public Defender did not do any fact finding into the DA using count 10 of his second strike. Any change in sentencing defendant should have been in court. Defendant feels the court would not give him a fair hearing so warrant to get a correct hearing and sentence.

a. Supporting facts:

my two strikes were committed before May 6, 1986 this abrogates the holding in people v. Fritz. Defendants two strikes were in 1975 and 1986. The Three strike law is not an enhancement when I was sentenced in 2000 my court gave me two strikes and sales of cocaine was a felony and activated my third strike, not what the DA told the court where he used count 10 of my second strike to decide the court no fact finding was done by the court, no fact finding was done by my Public Defender. So I have strong justification not to use this court because it didn't get a fair hearing and the DA is corrupt lying to the court. This is why I didn't file an Appeal. But this court can now fix this by bringing me back to court and resentencing me correctly under § 80-483 and 1172.75 for the illegal sentence I have and changing the habitual criminal charge the DA told the court where he used count 10 to decide the court isn't thinking my third strike was for a sexually violent crime either no where is any transcript or court case was I ever sentenced to my third strike by Jury for that. Please fix this I should get punitive damages awarded by this court for the time the DA has caused me to stay in prison for the illegal sentence he charged by lying to the court and keeping me in prison.

b. Supporting documents:

See grounds one and two for supporting documents
They are all the same

c. Supporting cases, rules, or other authority:

People v. Fritz

People v. Kilian (2024)

7. Ground 2 or Ground 6 (if applicable):

SB-483 and 1172.75 Resentencing, the DA gave the court false information - The judge denied me 1172.75 without fact finding, without Defendant in court when any felony is brought up in court where the Defendant must be present. The defendant's Public Defender failed to advise him on everything the DA said he was telling the court. Defendant told Public Defender not to let the DA use another charge or cases that wasn't resentencing on SB-483, 1172.75, which his Public defender failed and sided with the DA see transcripts Date Aug. 5, 2022. The Public Defender should have stopped the hearing and contacted Defendant when the DA told the court to change his sentence to habitual criminal to keep him in prison (alive).

a. Supporting facts:

I was Denied SB-483 resentencing because the DA mislead the court and told them my third strike was for a sexually violent crime "NO" Sales of cocaine "DRUGS" was a felony and it activated my third strike. All my strikes were before 1986, for the purpose of enhancements of a sentence under 667 People v. Fritz ANY "sentence for crimes committed on or after May 6 1986 This abrogates the holding in People v. Fritz that All "my crimes were committed before 1986. I had two strikes no enhancements so the DA falsely told the court I had enhancements when they were two strikes. Therefore I qualify for 1172.75 SB-483 resentencing and should be compensated for having to stay in prison against my will. The court never did any fact finding and you can see by the transcripts Date Aug. 5, 2022 the Judge just said OK read it to me and ill put in the record (Paraphrase) I got a unfair deal with a Public Defender who never did any fact finding or talked to me on the phone, he sent one note on scratch paper & ask him to see my letter. It says don't let the DA try to enter any other facts into the hearing other than Resentencing.

(Paraphrase)

b. Supporting documents:

See GROUNDS 1+2 They are sume documents

Please forgive Handwriting writing I have carpal tunnel Both hands and the fingers.

c. Supporting cases, rules, or other authority:

People v. Fritz

Transcripts Date Aug. 5 2022

13. a. (1) Name of court: _____
 (2) Nature of proceeding (for example, "habeas corpus petition"): _____
 (3) Issues raised: (a) _____
 (b) _____
 (4) Result (attach order or explain why unavailable): _____
 (5) Date of decision: _____

b. (1) Name of court: _____
 (2) Nature of proceeding: _____
 (3) Issues raised: (a) _____
 (b) _____
 (4) Result (attach order or explain why unavailable): _____
 (5) Date of decision: _____

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

I had two Back surgeries, partially paralyzed left leg and hands, fighting cancer stage IV. I did not trust the court when they let DA enhance my sentence to habitual criminal when I went for a illegal sentence which should have charged other than resentencing to the strikes time served under SB 483

16. Are you presently represented by counsel? Yes No If yes, state the attorney's name and address, if known:

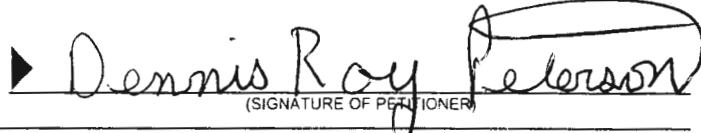
17. Do you have any petition, appeal, or other matter pending in any court? Yes No If yes, explain:

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

I file a writ to lower court that failed to follow the law my Sixth and 14th Amendments have been violated. This court will follow the law and I will be resentenced and go home after 25 years on a non-violent crime (Sales of cocaine).

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: 11-4-24


 (SIGNATURE OF PETITIONER)

P92157
A03959757ABSTRACT OF JUDGMENT—PRISON COMMITMENT—INDETERMINATE
[NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-292 ATTACHED]

CR-292

<input checked="" type="checkbox"/> SUPERIOR	COURT OF CALIFORNIA, COUNTY OF: <u>Placer</u>				FILED PLACER COUNTY SUPERIOR COURT OF CALIFORNIA		
<input type="checkbox"/> MUNICIPAL	BRANCH OR JUDICIAL DISTRICT:						
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: Dennis Roy Peterson		DOB: 09-09-54	62-13569	-A			
AKA: CII#: A03959757 BOOKING #: P92175		NOT PRESENT		-B			
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGMENT		AMENDED ABSTRACT		-C	JOHN MENDES EXECUTIVE OFFICER & CLERK		
DATE OF HEARING 08-25-2000		DEPT. NO. 13	JUDGE <u>J. Roeder</u>	-D	By <u>B. Fields</u> Deputy		
CLERK <u>B. Fields</u>	REPORTER <u>J. Sasek</u>	PROBATION NO. OR PROBATION OFFICER <u>N. Miller</u>					
COUNSEL FOR PEOPLE <u>G. Horst</u>		COUNSEL FOR DEFENDANT <u>L. Cole</u>					
		<input checked="" type="checkbox"/> APPTD.					

1. Defendant was convicted of the commission of the following felonies:

Additional counts are listed on attachment
(number of pages attached)

CNT.	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY			CONCURRENT	CONSECUTive	65 STAY
						JURY	COURT	PLEA			
01	HS	11351	Poss for sale of cont. subs cocaine	2000	07/12/00	X					
02	HS	11350a	Poss of cont. subs.cocaine	2000	07/12/00	X					X
03	HS	11355	main. place for sale of cont.subs	2000	07/12/00	X					X
					/ /						
					/ /						
					/ /						

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST enhancements stricken under PC 1385.

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST enhancements stricken under PC 1385.

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL
667.5 (b)	1							01 00

Defendant was sentenced to State Prison for an INDETERMINATE TERM:

4. For LIFE WITHOUT THE POSSIBILITY OF PAROLE on counts _____

5. For LIFE WITH POSSIBILITY OF PAROLE on counts _____

6. For 25 years to life, WITH POSSIBILITY OF PAROLE on counts 1 plus enhancement time shown above.

7. Additional determinate term (see CR-290).

8. Defendant was sentenced pursuant to PC 667 (b)-(i) or PC 1170.12 PC 667.61 PC 667.7 PC 667.9
 other (specify):

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for indeterminate sentences. Attachments may be used but must be referred to in this document.
(Continued on reverse)

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: Dennis Roy Peterson				
62-13569	-A	-B	-C	-D

9. FINANCIAL OBLIGATIONS (including any applicable penalty assessments):

- a. RESTITUTION FINE of: \$ 5,000 per PC 1202.4(b) forthwith per PC 2085.5.
- b. RESTITUTION FINE of: \$ 5,000 per PC 1202.45 suspended unless parole is revoked.
- c. RESTITUTION of: \$ _____ per PC 1202.4(f) to victim(s)* Restitution Fund
(*List victim name(s) if known and amount breakdown in item 11, below.)
(1) Amount to be determined.
(2) Interest rate of: _____ % (not to exceed 10% per PC 1204.4(f)(3)(F)).
- d. LAB FEE of: \$ _____ for counts: _____ per H&SC 11372.5(a).
- e. DRUG PROGRAM FEE of \$150 per H&SC 11372.7(a).
- f. FINE of: \$ _____ per PC 1202.5.

10. TESTING

- a. AIDS pursuant to PC 1202.1 other (specify):
- b. DNA pursuant to PC 290.2 other (specify):

11. Other orders (specify):



THE FOREGOING INSTRUMENT
IS A CORRECT COPY OF THE
ORIGINAL ON FILE IN THIS
OFFICE.

ATTEST:

John Mendes
Superior Court Clerk,
County of Placer, State
of California
By

12. Execution of sentence imposed

- a. at initial sentencing hearing.
- b. at resentencing per decision on appeal.
- c. after revocation of probation.
- d. at resentencing per recall of commitment. (PC 1170(d).)
- e. other (specify):

13. CREDIT FOR TIME SERVED

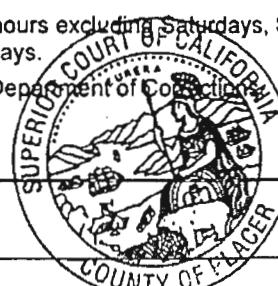
CASE NUMBER	TOTAL CREDITS	ACTUAL	LOCAL CONDUCT
62-13569	-A 265	177	<input checked="" type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
	-B		<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
	-C		<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
	-D		<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1
DATE SENTENCE PRONOUNCED: 08-25-2000		SERVED TIME IN STATE INSTITUTION: <input type="checkbox"/> DMH <input checked="" type="checkbox"/> CDC <input type="checkbox"/> CRC	

14. The defendant is remanded to the custody of the sheriff forthwith after 48 hours excluding Saturdays, Sundays, and holidays.

To be delivered to the reception center designated by the director of the California Department of Corrections
 other (specify):

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.



DEPUTY'S SIGNATURE

CR-292 (Rev January 1, 1999)

DATE

08-25-2000

ABSTRACT OF JUDGMENT—PRISON COMMITMENT—INDETERMINATE

Page two

SUPERIOR COURT OF CALIFORNIA, COUNTY OF PL

P20157
MSF

#49 Date: 07/29/22 Time: 8:30:00AM Department 20 Judge: Steven J. Howell
People vs. Peterson, Dennis Roy
 Nature of Proceedings: Review Custody Status: Sentenced Defendant
 Motion Detail: Time Waiver: Waived through:

Additional Information: PC 1171.1 (SB-483)

Clerk: Myles L. Taylor / C. STRUTHERS

Defense Counsel: Placer County Public Defender,

Defense Counsel: Kendall, Earl B. Whatcott G.D.A.

Defender Counsel: Burdick, Kevin

[] certified [] qualified

Reporter: Janell Rose

Weerts

Language:

[] Oath on File

Defense Counsel: Cole, Larry

Time Estimate:

[] vacate open events

[] Defendant present not present PC977 *A in*
 [] Arrn waived Arrn completed Viol of Prob *QD*
 Appt. Public Defender Conflict Firm
 [] _____
 [] Not guilty Denied Admitted
 [] Advised financial responsibility
 [] Case dismissed Petition dismissed
 [] Amended _____
 [] General time waiver Time not waived
 [] Time waived to next hearing to _____
 Preliminary hearing time waiver 10 60
 [] Preliminary hearing is waived and defendant is held to answer, complaint deemed information
 Trial time waiver general 60 days to next date not waived
 Attend and provide proof of _____ self help meetings per week until further order of the Court
 Proof shown _____ not shown
 [] Motion for new jail turn in date granted denied. New turn in date _____ Previous date _____
 [] Transcript request date _____ Reporter _____ requested by Court Defense DA
 [] PREP CENTER: Defendant is ordered to report to probation for an assessment within 72 hours to determine qualification into the PREP center. Defendant is ordered to fully comply with case plans as established by probation if deemed qualified after assessment.
Motion Denied
 [] Defendant transitioned from Prop 36, the plea is withdrawn, case is dismissed and fees/fines are waived and set aside
 [] Defendant ordered to undergo treatment pursuant to PC1210.1 in _____ county.
 [] Defendant is found to be indigent and qualifies for court appointed counsel
 [] DEJ PC1000 completed, plea withdrawn and case is dismissed See Formal Order
*IT IS ORDERED THAT THE SENTENCE AS IT WAS BASED ON
A SEXUALLY VIOLENT OFFENSE. COURT ALSO ORDERS A COPY OF
TRANSCRIPTS SENT TO CDCR. COURT ALSO ORDERS A COPY OF*
 [] Ordered booked and released *COPY OF MINUTES BE SENT TO CDCR.*
 Defendant ordered to report to the: Criminal Division Revenue Services Public Defender
 [] Probation Department Forthwith on _____

[] Remanded to custody of Sheriff until next appearance. Bail as set or \$ _____ Bail terms if released
 [] CDCR PC1170(h) PC1170(h)(5) Charge: _____ Felony Misd
 [] Committed to serve: jail _____ credits _____ (actual good time pretrial)

[] Committed to _____ state hospital

[] Discharged O/R with terms Supervised Pretrial Release: O/R EMP Bail

Signature: _____

Defendant Jail Revenue Services Probation DA Defense Counsel

05-2016



Original Telemedicine Report

Office/Clinic Note

* Final Report *

If patient remains stable followed by
 Maintenance 21-day cycle for 24 months
 -Pembrolizumab 200 mg IV over 30 minutes on day 1
 Followed by
 -Pemetrexed 500 mg/m² IV over 10 minutes on day 1
 -Will monitor CBC CMP with each cycle, TSH free T4 every 6 weeks

The patient is stable repeat CT scan chest abdomen pelvis with IV contrast after 3 cycles
 Discussed detail with the patient about risk and benefits of the chemotherapy plus immunotherapy
 Avoid any NSAIDs 3 days before treatment and 3 days after

With treatment patient should be on folic acid 1 mg p.o. daily
 B12 1000 mcg intramuscular every 3 cycles

With immunotherapy monitoring for any pneumonitis, colitis nephritis meningitis or eye problems

Present stage of cancer; stage IV
 Condition of cancer: Active
 Treatment Intent; palliative
 Prognosis: Most likely less than 6-month
 Possibility of dying due to cancer plus other comorbidities within next 1 year: Compression release

FOLLOW UP: 4 weeks

Notes dictated by dragon possibility of dictation interpretation errors .Total time spent coordination of care and making treatment decision, planning with reviewing labs, from available records around 65 minutes, 50% time spent with patient discussion counseling, tried to give answers to the patient questions appropriately.

PETERSON, DENNIS ROY - 1005459

BUN/Creat Ratio: 15 (05/14/24)
 Calcium Lvl: 9.2 mg/dL (05/14/24)
 Chloride: 108 mmol/L High (05/14/24)
 CO2: 25 nmol/L (05/14/24)
 Creatinine: 0.96 mg/dL (05/14/24)
 Eos Absolute: 0.21 x10(3)/uL (05/14/24)
 Eos Auto: 4.2 % (05/14/24)
 GFR African American: 94 mL/min/1.73 m² (05/14/24)
 GFR NonAfrican American: 78 mL/min/1.73 m² (05/14/24)
 Globulin: 2 (05/14/24)
 Glucose Lvl: 96 mg/dL (05/14/24)
 Hct: 41.2 % (05/14/24)
 Hgb: 13.8 gm/dL (05/14/24)
 Immature Gran %: 0 % (05/14/24)
 Immature Gran Absolute: 0 (05/14/24)
 INR: 1.04 ratio (05/14/24)
 Lymph Absolute: 2.08 x10(3)/uL (05/14/24)
 Lymph Auto: 41.4 % (05/14/24)
 MCH: 29.7 pg (05/14/24)
 MCHC: 33.5 gm/dL (05/14/24)
 MCV: 88.6 fL (05/14/24)
 Mono Absolute: 0.37 x10(3)/uL (05/14/24)
 Mono Auto: 7.4 % (05/14/24)
 MPV: 9.7 fL (05/14/24)
 Neutro Absolute: 2.36 x10(3)/uL (05/14/24)
 Neutro Auto: 46.8 % (05/14/24)
 NRBC Absolute: 0 /100 WBCs (05/14/24)
 NRBC Auto Pct: 0 /100 WBCs (05/14/24)
 Platelet: 177 x10(3)/uL (05/14/24)
 Potassium Lvl: 4.6 mmol (05/14/24)
 PT: 13.6 second(s) (05/14/24)
 RBC: 4.65 x10(6)/uL (05/14/24)
 RDW-CV: 13.9 % (05/14/24)
 Sodium Lvl: 143 mmol (05/14/24)
 Total Protein: 6.6 gm/dL (05/14/24)
 WBC: 5 x10(3)/uL (05/14/24)

[1] Hematology Oncology Telemedicine Visit Note; Magana, Valerie 03/25/2024 11:20 PDT

Signature Line

Magana, Valerie

[Electronically Signed on: 06/19/2024 15:00 PDT]

Gill, Amandeep S MD MD

Original Telemedicine Report

Office/Clinic Note

PETERSON, DENNIS ROY - 1005459

* Final Report *

[Verified on: 06/19/2024 15:00 PDT]

Gill, Amandeep S MD MD

Document Type: Office/Clinic Note
Document Date: June 19, 2024 11:40 PDT
Document Status: Auth (Verified)
Document Title/Subject: Hematology Oncology Telemedicine Visit Note
Performed By/Author: Magana, Valerie on June 18, 2024 15:30 PDT
Verified by: Gill, Amandeep S MD on June 19, 2024 15:00 PDT
Encounter info: 31410323, San Joaquin Hcsp, Clinic Outpatient, 6/19/2024 -

JUN 21 2024

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLACER

OCT 14 2022

JAKE CHATTERS
EXECUTIVE OFFICER & CLERK
By S. Perez, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

In re Petition of Habeas Corpus of,
DENNIS ROY PETERSON,
CDCR# P-92157
Petitioner.

Cases: 62-013569A

ORDER SUMMARILY DENYING
PETITIONS FOR WRIT OF HABEAS
CORPUS

The petitioner was convicted by a jury on 7/12/2000 of possession of cocaine for sale in violation of Health and Safety Code § 11351, possession of cocaine in violation of Health and Safety Code § 11350(a), and maintaining a place where controlled substances are sold or used in violation of Health and Safety Code § 11366. The petitioner admitted nine prior strike allegations and a prior prison term allegation. The petitioner was sentenced on 8/25/2000 to 26 years to life in prison. The judgment was affirmed by the court of appeal on 7/9/2001.

On 7/29/22, the court held a hearing to determine whether the petitioner's one-year prior prison term enhancement should be dismissed pursuant to Penal Code § 1171.1 (which has been renumbered as Penal Code § 1172.75). At the hearing, the petitioner was represented an attorney from the Placer County Public Defender's Office, Brad Whatcott.

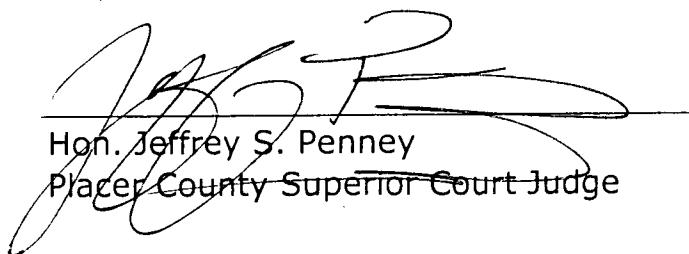
1 The People were represented by Placer County Deputy District Attorney
2 Timothy Weerts.

3 The court found that the defendant was not entitled to the relief set
4 forth in Penal Code § 1171.1 (now 1172.75) because that section, by its
5 express terms, does not apply to a prior prison term imposed for a sexually
6 violent offense. The court found that the defendant's prior prison term was
7 for a sexually violent offense.

8 A habeas corpus proceeding cannot serve as a substitute for an
9 appeal. *Ex Parte Dixon* (1953) 41 Cal.2d 756. Issues that could have been
10 raised on appeal cannot be presented in a writ of habeas corpus absent
11 strong justification. *In re Harris* (1993) 5 Cal.4th 813, 829. The petitioner
12 did not appeal the court's ruling and there has no showing justifying the
13 failure to appeal.

14 Accordingly, the court finds that the petitioner has not made a prima
15 facie showing for relief and the petition is summarily denied.

16
17 Date: 10/14/22


18 _____
19 Hon. Jeffrey S. Penney
Placer County Superior Court Judge
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FILED
Superior Court of California
County of Placer

MAY 09 2022

Jake Chatters
Executive Officer & Clerk
By: A. Kommu, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER

PEOPLE OF THE STATE OF
CALIFORNIA,

Case No.: 62-013569

Plaintiff,

ORDER RE PENAL CODE §§ 1171.1
(SB-483)

vs.

DENNIS ROY PETERSON

Defendant.

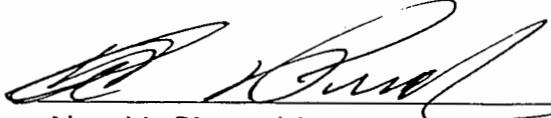
The defendant was sentenced on 8-25-2000 by this court to a total of 26 years to life in state prison for violations of California Health and Safety Code sections 11351, 11350, 11366, 11550, and Business and Professions Code section 4140. The 26 years to life sentence included one year for a prior prison term enhancement under PC 667.5(b). On 1/1/22, the Legislature enacted PC 1171.1, which requires courts to review cases for possible recall if a sentence included an enhancement under PC 667.5(b). PC 667.5(b) has been declared invalid by the Legislature.

This case was identified by the CDCR as a case to be reviewed by the court. The court finds that PC 1171.1 does apply to this case because the defendant's sentence included a one year enhancements under PC 667.5(b).

1 The Placer County Public Defender is appointed to represent the defendant
2 in this matter. The case is set for a conference on Friday June ¹⁰₁₁, 2022 at
3 8:30 am in Department 20. The Court Clerk is directed to file this order and
4 to serve the defendant, the Public Defender, and the District Attorney.

5

6 Date: 5-9-2022


7 Alan V. Pineschi
8 Placer County Superior Court Judge

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PQZL157

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF PLACER**FILED**
Superior Court of California
County of Placer

AUG 05 2022

3 --oo--
4 Jake Chatters
Executive Officer & Clerk
By: N. Phelps, Deputy

5 DEPARTMENT NO. 20 HON. STEVEN J. HOWELL, JUDGE

6)
7) PEOPLE OF THE STATE OF CALIFORNIA,) AUG 12 2022
8) Plaintiff,)
9))
10) versus Case No. 62-013569A
11) DENNIS ROY PETERSON,)
12) Defendant.)
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--oo--

REPORTER'S TRANSCRIPT

July 29, 2022

REVIEW

FC1171.1 (SB-483)

--oo--

APPEARANCES:

FOR THE PEOPLE: PLACER COUNTY DISTRICT ATTORNEY
BY: Timothy Weerts
10610 Justice Center Drive, #240
Roseville, CA 95678FOR THE DEFENDANT: KOUKOL & ASSOCIATES, INC.
PLACER COUNTY PUBLIC DEFENDER
BY: Brad Whatcott
3785 Placer Corporate Drive, #550
Rocklin, CA 95765

Reported By: JANELL ROSE, CSR 7249

1

1 ROSEVILLE, CALIFORNIA
2 July 29, 2022
3 --ooO--
4 The matter of PEOPLE OF THE STATE OF CALIFORNIA,
5 Plaintiffs, versus DENNIS ROY PETERSON, Defendant, case number
6 62-013569A, came regularly this day before the Honorable STEVEN
7 J. HOWELL, Judge of the Superior Court of the State of
8 California, in and for the County of Placer, Department Number
9 20 thereof.

10 The Plaintiffs were represented by Timothy Weerts, Deputy
11 District Attorney, acting as their Counsel.

12 The Defendant was represented by Brad Whatcott, Deputy
13 Public Defender, acting as his Counsel.

14 The following proceedings were had, to wit:

15 --ooO--
16 THE COURT: The name of the defendant is Dennis Roy
17 Peterson. Case number 62-013569A. Appearances?

18 MR. WEERTS: Timothy Weerts for the People.

19 MR. WHATCOTT: Brad Whatcott for Mr. Peterson. He is in
20 state prison. He did authorize me, by written waiver, to appear
21 for him today for the resentencing.

22 THE COURT: Mr. DA, your last name is?

23 MR. WEERTS: Weerts, W-E-E-R-T-S.

24 THE COURT: Mr. Weerts, I did read your response for
25 resentencing. The Court put the matter on calendar, as I
26 understand it, and I read your brief.

27 Did you have a chance to look at that, Mr. Whatcott?

28 MR. WHATCOTT: I did, yes.

1 THE COURT: So the abstract was filed August 25th of 2000;
2 is that what you show, Mr. Weerts?

3 MR. WEERTS: I believe that's correct.

4 THE COURT: And you indicated that the defendant is not
5 entitled to relief because of the sex offenses on the first
6 strike -- I mean, the first series of convictions that were
7 alleged in the Complaint?

8 MR. WEERTS: Not because of the strike allegations but
9 because those are also the basis of the prison prior that was
10 alleged.

11 THE COURT: So looking at this abstract, in what way do
12 you believe it should be amended?

13 MR. WEERTS: Yes, Your Honor. I don't know that there
14 is -- frankly, I'm not sure.

15 My concern in requesting that it be amended is that if
16 it's -- I think it should be denied. I don't believe he's
17 entitled to relief, but if there is no change, I don't want CDCR
18 to do another check and see that he has this presumptively
19 problematic enhancement and then send it back again for review.

20 THE COURT: I see now. You're just saying deny it, and
21 you'll state the reason on the record, we'll get a transcript,
22 and then send it to the Department of Corrections?

23 MR. WEERTS: I think that would alleviate that concern.

24 THE COURT: Mr. Whatcott?

25 MR. WHATCOTT: Your Honor, I have communicated with Mr.
26 Peterson and explained the issues to him. I do think the People
27 are correct in that he is not entitled to have the prison prior
28 stricken because it was based on a sexually violent offense.

1 Mr. Peterson is still requesting that the Court consider
2 striking his prior prison term. His reason is is that he
3 already received a lengthy sentence. I'll submit on that issue.

4 As far as noting that the prison prior is based on a
5 sexually violent offense, I would object to that being noted on
6 the abstract. I think a minute order or a transcript sent to
7 CDC would clarify that.

8 THE COURT: Okay. So Mr. Weerts, here is your opportunity
9 to state clearly on the record why he's not entitled to be
10 resentenced.

11 MR. WEERTS: Thank you, Your Honor.

12 The reason that Mr. Peterson is not entitled to be
13 resentenced is that the prison prior for which he was convicted
14 under Penal Code Section 667.5(b) is based on a sexually violent
15 offense as defined in Welfare and Institutions Code section
16 6600(b) and would still be a valid enhancement under the law as
17 it stands today.

18 THE COURT: Submitted?

19 MR. WHATCOTT: Yes.

20 THE COURT: All right. The Court will have a minute order
21 prepared denying the motion for resentencing stating the gist of
22 what Mr. Weerts just recited for the record.

23 I will further direct the reporter to prepare a
24 transcript. Madam Clerk is directed to then send a copy of the
25 minutes, a certified copy, and a copy of the transcript to the
26 Department of Corrections. Counsel should be also furnished
27 copies of those two documents.

28 Anything further?

1 MR. WHATCOTT: No, Your Honor.
2 MR. WEERTS: No. Thank you.
3 THE COURT: Hang on one second.
4 All right. Madam Reporter, the clerk has her
5 responsibilities to send minutes. I'll direct you to send a
6 certified copy of the transcript to the Department of
7 Corrections as well.

8 THE REPORTER: Yes, Your Honor.

9 THE COURT: Thank you. Anything further?

10 MR. WHATCOTT: No, Your Honor.

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12 (Whereupon, the proceeding concluded.)

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF PLACER

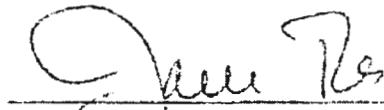
3 --ooO--

4)
5 PEOPLE OF THE STATE OF CALIFORNIA,)
6) Case No. 62-013569A
7 Plaintiff,)
8)
9 Vs.) REPORTER'S
10) TRANSCRIPT
11 DENNIS ROY PETERSON,)
12)
13 Defendant.)
14 STATE OF CALIFORNIA)
15) ss
16 COUNTY OF PLACER)

17 I, JANELL ROSE, Certified Shorthand Reporter of the State
18 of California, do hereby certify that the foregoing pages 1
19 through 6, inclusive, comprises a true and correct transcript of
20 the proceedings had in the above-entitled matter held on July
21 29, 2022.

22 I also certify that portions of the transcript are
23 governed by the provisions of CCP237(a)(2) and that all personal
juror identifying information has been redacted.

24 IN WITNESS WHEREOF, I have subscribed this certificate at
25 Roseville, California, this 4th day of August, 2022.

26 
27 JANELL ROSE
28 JANELL ROSE, CSR
License No. 7249

RECEIVED
LEGAL PROCESSING UNIT

AUG 05 2022

DEPT OF CORRECTIONS
AND REHABILITATION



THE FOREGOING INSTRUMENT
IS A CORRECT COPY OF THE
ORIGINAL ON FILE IN THIS
OFFICE. ATTEST: *8/8/22*

RECEIVED
LEGAL PROCESSING UNIT

AUG 05 2022

DEPT OF CORRECTIONS
AND REHABILITATION

JAKE CHATTERS
Superior Court Clerk,
County of Placer, State of
California.

By *[Signature]* Deputy

STATE OF CALIFORNIA
GRIEVANCE
CDCR 602-1 (Rev. 01/22)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

MCSP Page 1 of 2

	OGT Log No: <u>517494</u>	Date Received: <u>FEB 03 2024</u>
	Decision Due Date:	
	Categories:	<u>OOG</u>

Claimant Name: DENNIS R. PETERSON CDCR #: P92157
 Institution/Parole Region: MCSP Current Housing/Parole Unit: E21-105-3L

Use this form to file a complaint with the Department.

In order for the Department to understand your complaint, please answer all of the following questions:

- What is the nature of your complaint?
- When and where did the complaint occur?
- Who was involved?
- Which specific people can support your complaint?
- Did you try to informally resolve the complaint?
- What rule or policy are you relying on to make your complaint?
- What specific action would resolve your complaint?

NOTE: Attach documents that help support your complaint (identify the documents if you do not have them).

Please be advised and duly informed, in your official capacity. Appellant believes and thereon alleges that his sentence is calculated wrong.

On/or about January 26, 2024, as I was reviewing my CDCR Form 1897 calculation sheet. I discovered the miscalculation.

Appellant's EPRD should be recalculated to reflect Two Strikes. The current 1897 shows a Third Strike, which is incorrect.

On/or about January 29, 2024, Appellant received an CDCR-Release Date Change Notice, with an MEPD, before May 1, 2021, and after June 14, 2021.

Appellant contends this calculation is in error. On/or about December 17, 2023, Appellant requested an Abstract of Judgment to challenge the incorrect calculation.

STATE OF CALIFORNIA
GRIEVANCE
CDCR 602-1 (Rev. 01/22)

CONTINUATION PAGE

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Page 2 of 2

This miscalculation, violates the Fourteenth Amendment to the United States Constitution and Article I, Section 7, of the California Constitution. Appellant is being illegally incarcerated, and there is a Liberty Interest at Stake.

Action Requested

Please Investigate this error in my Sentence Calculation.

Thank You.

Claimant Signature:

Dennis Ray Peterson

Date Signed: 2-6-24



Credit Code	3
CR Earned %	20%
Vested %	33.3%
Earned Factor (A11) ►	5
Vested Factor (A4) ►	2

▼ Case Number/s ▼

6213569

Section A - Original MEPD Calculation

This is the initial MEPD calculation that is done upon reception. This MEPD remains throughout the term, unless there is a change in credit earning status, program credits and/or credit losses/credit restorations.

A1. Start Date	09/05/2000
A2. Plus Time Imposed	+ 26 YRS 0 MO
	= 09/05/2026
A3. Minus PRE & Post (PST) Sentence Credit	- 265 PRE 10 PST
	= 12/04/2025
A4. Minus Vested Credit Divide (A3 PST) by Vested Factor above. (Drop decimals)	- 5
	= 11/29/2025
A5. Plus Dead Time/minus Merit Credit	+ 0 DT - 0 MC
A6. Equals Maximum Date	= 11/29/2025

If change in credit earning(s), credit loss, Reeves, program credits, etc. Stop here and proceed to Section B.

A7. Minus Day Before Start Date (Line A1)	- _____
A8. Equals Days to Serve	= _____
A9. Minus Dead Time (A5)	- _____
A10. Equals Days where credit may be applied.	= _____
A11. Equals CDCR Good Conduct Credit (GCC), divide (Line A10) by Earned Factor above. (Drop Decimals except Credit Code 2, Round Up)	= _____
A12. Maximum Date (Line A8)	= _____
A13. Minus CDCR GCC (Line A11)	- _____
A14. Equals Original MEPD	= _____

Section B - Recalculation of MEPD (change in credit earning status, credit loss/credit restoration, etc.)

Step 1: Accumulation of CDCR GCC for days previously earned and projected future credit. Record fractional amounts of credit (2 decimal places).

B1. Maximum Date (Line A8)	= 11/29/2025
B2. Minus CDCR GCC Earned Section D Total Credit w/fractions or Section G (Line G9)	- 748.5
B3. Plus Net Credit Loss (Section E Total) Leave Line B3 Blank if Credit Code 2 (PC2931)	+ 511
B4. Equals Current Release Date (CRD)* Calculation ends here if: - Credit Code 2 proceed to B12	= 04/06/2025
B5. Minus Date Credit Applied Through (Section D Only)	- 05/01/2021
B6. Equals Days remaining to serve as of date credit applied.	= 1436

B7. Divide Line B6 by Projected Factor as follows to project CDCR GCC. If Projected Factor is equal to 99, divide by 3 then multiply by

Projected %	Work Group	Projected Factor
50%	A1	2.00
Equals Projected CDCR GCC		= 718

B8. Total CDCR GCC - Accumulate Fractional Credit

$$\begin{aligned} \text{Line B2} &= 748.5 \quad (\text{incl. fractions}) \\ + \text{Line B7} &= 718 \quad (\text{incl. fractions}) = 1466.5 \end{aligned}$$

Step 2: Recalculate MEPD

B9. Maximum Date (Line A8+B1)	= 11/29/2025
B10. Minus Total CDCR GCC (Line B8, drop decimals)	- 1466
B11. Plus Net Credit Lost (Section E Total)	+ 511
B12. Minus Program Credit (Section F Total)	- 674
B13. Equals Adjusted MEPD *	= 06/14/2021

* The CRD is an intermediate date and may exceed the maximum date; however, the Adjusted MEPD cannot exceed the Maximum Date.

Notes:

CALCULATED BY J. Lopez CCRA		
INMATE'S NAME PETERSON, DENNIS	CDCR NUMBER P92157	LOCATION MCSP

DATE
01/26/2024



[10]MCPL0044395[33]

CALCULATION WORKSHEET - DETERMINATE (DSL)

Credit Code	3
CR Earned %	20%
Vested %	33.3%
Earned Factor (A11) ►	5
Vested Factor (A4) ►	2

▼ Case Number/s ▼

6213569 - DSL TERM ONLY

Section A - Original EPRD Calculation

This is the initial EPRD calculation that is done upon reception. This EPRD remains throughout the term, unless there is a change in credit earning status, program credits and/or credit losses/credit restorations.

A1. Start Date	09/05/2000
A2. Plus Time Imposed	+ 1 YRS 0 MO
	= 09/05/2001
A3. Minus PRE & Post (PST) Sentence Credit	- 265 PRE 10 PST
	= 12/04/2000
A4. Minus Vested Credit Divide (A3 PST) by Vested Factor above. (Drop decimals)	- 5
	= 11/29/2000
A5. Plus Dead Time/minus Merit Credit	+ 0 DT - 0 MC
A6. Equals Maximum Date	= 11/29/2000
If change in credit earning(s), credit loss, Reeves, program credits, etc. Stop here and proceed to Section B.	
A7. Minus Day Before Start Date (Line A1)	-
A8. Equals Days to Serve	=
A9. Minus Dead Time (A5)	-
A10. Equals Days where credit may be applied.	=
A11. Equals CDCR Good Conduct Credit (GCC), divide (Line A10) by Earned Factor above. (Drop Decimals except Credit Code 2, Round Up)	=
A12. Maximum Date (Line A6)	=
A13. Minus CDCR GCC (Line A11)	-
A14. Equals Original EPRD	=

Section B - Recalculation of EPRD (change in credit earning status, credit loss/credit restoration, etc.)

Step 1: Accumulation of CDCR GCC for days previously earned and projected future credit. Record fractional amounts of credit (2 decimal places).

B1. Maximum Date (Line A6)	= 11/29/2000	
B2. Minus CDCR GCC Earned Section D Total Credit w/fractions or Section G (Line G9)	- 0.25	
B3. Plus Net Credit Loss (Section E Total) + Leave Line B3 Blank if Credit Code 2 (PC2931)	= 0	
B4. Equals Current Release Date (CRD)* = Calculation ends here if: - Credit Code 2 proceed to B12	= 11/29/2000	
B5. Minus Date Credit Applied Through (Section D Only)	- 09/05/2000	
B6. Equals Days remaining to serve as of date credit applied.	= 85	
B7. Divide Line B6 by Projected Factor as follows to project CDCR GCC. If Projected Factor is equal to 99, divide by 3 then multiply by 2.		
Projected %	Work Group	Projected Factor
20%	A1	5.00
Equals Projected CDCR GCC		= 17

B8. Total CDCR GCC - Accumulate Fractional Credit

$$\begin{array}{r} \text{Line B2} \quad 0.25 \quad (\text{incl. fractions}) \\ + \quad \text{Line B7} \quad 17 \quad (\text{incl. fractions}) \\ \hline \end{array} = 17.25$$

Step 2: Recalculate EPRD

B9. Maximum Date (Line A6&B1)	= 11/29/2000
B10. Minus Total CDCR GCC (Line B8,drop decimals)	- 17
B11. Plus Net Credit Lost (Section E Total)	+
B12. Minus Program Credit (Section F Total)	- 0
B13. Equals Adjusted EPRD *	= 11/12/2000

* The CRD is an intermediate date and may exceed the maximum date; however, the Adjusted EPRD cannot exceed the Maximum Date.

Notes:

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CALCULATED BY
J. Lopez CCRA

DATE
01/26/2024

INMATE'S NAME	CDCR NUMBER	LOCATION
PETERSON, DENNIS	P92157	MCSP



CALIFORNIA DEPARTMENT of
Corrections and Rehabilitation

OFFICE OF APPEALS DECISION

Offender Name: PETERSON, DENNIS ROY

Date: 06/19/2024

CDC#: P92157

Current Location: MCSP-Facility E

Current Area/Bed: E 021D1 - 105003L

Log #: 000000517494

Claim # 001

Received at Institution/Parole Region: Mule Creek State Prison

Submitted to Facility/Parole District: Mule Creek State Prison

Housing Area/Parole Unit:

Category: Offender Case Records

Sub-Category: Date Calculation

I. ISSUE ON APPEAL

You assert you only have two prior strikes, however sentenced under the three strikes law.

II. RULES AND REFERENCES

A. CONTROLLING AUTHORITY

Title 15, section 3481(e)

B. DOCUMENTS CONSIDERED

Grievance and Appeal log no. 517494; Abstract of Judgement Case no. VA144863; Minute Order Case No. 6213569; Appellate Court Opinion Case No. C036573

III. REASONING AND DECISION

This claim concerns your conviction and your assertion your sentence is illegally imposed under the three strikes law as you only have two prior strikes. The Office of Appeals finds this claim is outside the Department's jurisdiction, as this claim concerns a dispute regarding a conviction imposed by Los Angeles Superior Court for case no. 6213569, which was upheld by the Court of Appeals Case No. C036573. Pursuant to Title 15, section 3481(e), a claimant does not have the ability to submit a grievance or appeal to dispute a policy, decision, action, condition, or omission that was not made by the Department. Therefore, this claim is denied.

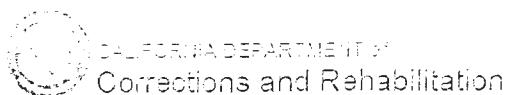
IV. REMEDY

Your claim has been denied. Therefore, there is no applicable remedy.

Decision: Denied

After a thorough review of all documents and evidence available at the time of this written decision, it is the order of the Office of Appeals that this claim is denied. This decision exhausts the administrative remedies available to the claimant within CDCR.

Staff Signature	Title	Date/Time
J. Moeckly [MOJO037]	Reviewing Authority	06/18/2024



OFFICE OF GRIEVANCES DECISION

Offender Name: PETERSON, DENNIS ROY

Date: 03/27/2024

CDC#: P92157

Current Location: MCSP-Facility E

Current Area/Bed: E 021D1 - 105003L

Log #: 000000517494

Claim #: C01

Received at Institution/Parole Region: Mule Creek State Prison

Submitted to Facility/Parole District: Mule Creek State Prison

Housing Area/Parole Unit:

Category: Offender Case Records

Sub-Category: Date Calculation

I. CLAIM

Claimant alleges EPPR should be recalculated to reflect two strikes and not three strikes. Claimant is requesting his sentence calculation be corrected.

II. RULES AND REFERENCES

A. CONTROLLING AUTHORITY

Proposition (Prop) 57 effective 05/01/2017; 05/01/2021; 12/28/2021
 California Code of Regulations (CCR), Title 15, Sections 3043, 3043.1, 3043.2
 Penal Code (PC) 667(b)-(i), 1170.12, 2933.5
 PEOPLE VS STOFLE (1996) 45 Cal.App.4th 417
 CCR, Title 15, Section 3000, Definitions.
 CCR, Title 15, Section 3001, Subject to Regulations.
 CCR, Title 15, Section 3480, Claimant's Ability to Grieve and to Appeal.
 CCR, Title 15, Section 3483, Grievance Review.

B. DOCUMENTS CONSIDERED

Grievance Log #517494
 Abstract of Judgment Placer County Case #6213569
 Minute Order Placer County Case #6213569
 Resentencing Transcript dated 07/29/2022
 Third Appellate District dated 07/09/2001
 Sentencing Transcripts dated 08/25/2000
 1397-U Calculation Worksheet date 03/27/2024

III. REASONING AND DECISION

Claimant was sentenced as a non-violent second/third strike offender from Placer County Court Case #6213569 for HS11351 Possess Controlled Substance, HS11350(a) Possess Controlled Substance (sentence stayed), HS11366 Maintain Place Use/Sale of Controlled Substance and case enhancement PC667.5(b) Prior Prison Term; Non Violent Non Offense is any Felony for an indeterminate term of 26 years to life.

Case enhancement PC667.5(b) Prior Prison Term; Non Violent Non Offense is any Felony for 1 year it counted as a non-violent second strike pursuant to PC667.5(b) and PC1170.12.



CALIFORNIA DEPARTMENT of
Corrections and Rehabilitation

CLAIMANT GRIEVANCE RECEIPT ACKNOWLEDGMENT

Offender Name: PETERSON, DENNIS R.

CDC#: P92157

Date: 02/08/2024

Current Location: MCSP-Facility E

Current Area/Bed: E 021D1105003L

From: Office of Grievances at Mule Creek State Prison

Re: Log # 000000517494

The California Department of Corrections and Rehabilitation Office of Grievances at Mule Creek State Prison received your grievance on 02/08/2024. Your grievance has been assigned for review and response.

Pursuant to California Code of Regulations, title 15, the Office of Grievances will complete its review no later than 04/09/2024.

Please be informed that the Office of Grievances will not respond to any inquiries about the status of a grievance prior to the date shown above.

LEGAL STATUS SUMMARY TYPE: D JUNE ** DISCREPANT ** 07/07/2009 21:37

CDC NUMBER P92157	NAME PETERSON, DENNIS, ROY	ETHNIC WHI	BIRTHDATE 09/09/1954
TERM STARTS 09/05/2000	LIFE TERM STARTS 11/29/2000	MIN ELIGIBLE PAROLE DTE 12/07/2005	
BASE TERM 25/00 + ENHCMNTS 1/00 = TOT TERM 26/00 TO LIFE		11/29/2025	PAROLE PERIOD 5 YRS

PRE-PRISON + POST SENTENCE CREDITS

CASE P2900-5 P1203-3 P2900-1 CRC-CRED MH-CRED P4019 P2931 POST-SENT TOT

6213569

177

88

10

275

REGISTRATION REQUIRED PER P290

REGISTRATION REQUIRED PER H11590

PC296 DNA COMPLETED

DOC. HEARING: / DEFENSE ATTORNEY: COLE,L
INIT. HEARING: 10/2024 INVESTIGATING AGENCY: AUBURN PD

RECV DT/ CNT	COUNTY/ OFF-CODE	CASE DESCRIPTION	SENTENCE DATE	CREDIT CODE	OFFENSE DATE
--------------	---------------------	---------------------	---------------	----------------	-----------------

CONTROLLING PRINCIPAL & CONSECUTIVE (INCLUDES ENHANCEMENTS/OFFENSES):

--CONTROLLING CASE --

9/05/2000 PLA 6213569	8/25/2000	NO STRIKES: 3
01 P667.5(B) PPT-NV		3
01 H11351		
POSS CS SALE		35 03/02/2000

NON-CONTROLLING OFFENSES:

9/05/2000 PLA 6213569	8/25/2000	NO STRIKES: 3
03 H11366		
MAINTAIN PLACE USE/SALE OF CS		35 03/02/2000

TRAN TYPE	DATE	END DATE	LOG NUMBER	RULE NUMBER	D A Y S
					ASSESS LOST REST DEAD

BEG 09/05/2000	*****BEG BAL*****		
BCL 05/24/2001	B01050044 3016B	90	17
BCL 03/03/2002	B02030003 3005C	90	
BCL 01/23/2005	05FA01086 3005C	61	
BCL 06/10/2005	05FA06075 3016	120	
BCL 02/28/2006	06FA02139 3016(A)	120	
BCL 03/06/2006	06FA03013 3016(A)	120	
BCL 04/28/2006	06FA04137 3005(C)	90	

***** CONTINUED *****

P92157
On 11-21-00

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2
3 DEPARTMENT NUMBER 13 HON. JAMES L. ROEDER, JUDGE
4

--00o--

5
6 THE PEOPLE OF THE STATE OF)
7 CALIFORNIA,)
8 Plaintiff,)
9 vs.) No. 62-013569
10 DENNIS ROY PETERSON,) FILED
11 Defendant.) PLACER COUNTY
12) SUPERIOR COURT OF CALIFORNIA
13) AUG 31 2000
14)
15) JOHN MENDES
16) EXECUTIVE OFFICER & CLERK
17) BY *R. Cole* Deputy
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

--00o-- FRIDAY, AUGUST 25, 2000

--00o--

(The above-entitled matter came on regularly this day
for probation hearing, judgment and sentencing.

The said defendant, Dennis Roy Peterson, was personally
present, and he was represented by Larry Cole, Attorney at Law.

The People were represented by Garen Horst, Deputy
District Attorney.

The Probation Department was represented by Norman Miller,
Deputy Probation Officer.

The Court Reporter was Jon Sasek, CSR 1650.

Proceedings were then had, to wit:)

--00o--

1 thing stands out from day one, and that's addiction to drugs, and
2 the problems that arise from drug usage and drug addiction.

3 Now, I understand the philosophy of the Three Strikes Law.
4 I understand that the People of the State of California took a
5 position, your Honor, and said when they passed the proposition
6 that, you know, if they don't learn their lesson, put them in,
7 throw away the key for all intents and purposes, because that is
8 what this is going to amount to, 50 years to life.

9 That begs the question in my mind, your Honor, about what
10 lesson they need to learn. Is it a lesson about violence, or is
11 it a lesson about violent crimes?

12 I think Mr. Peterson learned that lesson after about 17
13 years of incarceration.

14 Is it a lesson about drugs? Well, I'm not sure that is a
15 lesson that everybody can just automatically learn without some
16 help, and that help has never been available.

17 He was proceeding to get that help, get that monkey off
18 his back, when all of this happened. And it happened because he
19 needed that help.

20 So my suggestion to the Court is that it strike one
21 strike, and apply only one strike, doubling the midterms as the
22 Court is required to do, or even upper terms, allowing
23 Mr. Peterson the opportunity finally to get some help and emerge
24 at some place down the road, maybe age 60 or 62, free of that drug
25 addiction and, perhaps, be allowed to live the rest of his life as
26 a productive citizen.

27 I think the interests of justice certainly support that
28 result.

1 I raised the Eighth Amendment issue in my Points and
2 Authorities, your Honor, and I'm fully aware that there is no case
3 on point, but it is an issue that has been floating around the
4 legal circles for quite some time with the Three Strikes Law, and
5 it is an issue, as I attempted to point out in my Points and
6 Authorities, that at least four Justices of the United States
7 Supreme Court have taken serious interest in, and when the right
8 case gets up there it remains to be seen what they would do with
9 that.

10 Certainly life without parole for the crimes that
11 Mr. Peterson stands convicted of can without apology arguably be
12 said to be cruel and unusual, and I would submit it on that.

13 COURT: Okay. Thank you. People?

14 MR. HORST: Yes, your Honor. Has the Court been able to
15 review the statement in aggravation in opposition the People have
16 filed?

17 COURT: I have read both the defendant's motion and the
18 People's response.

19 MR. HORST: Thank you, your Honor.

20 The People do not want to restate all the comments we made
21 in there. We would be submitting on that.

22 For the Court to entertain the action submitted by
23 Mr. Cole we would have to strike eight of the nine strikes.
24 The Court has considered the underlying basis of those strikes.
25 They are significant, violent felonies. The facts are atrocious,
26 heinous. This is a man who is a habitual sex offender, in the
27 People's view has been a predator to society.

28 This is not a minimal offense we are dealing with here,

1 a small amount of contraband. It was a significant amount of
2 contraband. He was found guilty of possession for sale,
3 distributing this contraband in our community.

4 We submit and concur with the probation officer's
5 recommendation in this case.

6 This is a sobering moment. It is not an easy thing for
7 anybody to do, but in applying the Three Strikes Law, however, it
8 was intended in this case.

9 Given the nature of this offense, the nature of his
10 record, we believe that Romero should be denied.

11 The People take issue with characterizing all this in
12 terms of an addiction. We have attempted to explain our position
13 in our papers. I don't want to restate that.

14 With those comments, your Honor, the People will submit.

15 MR. COLE: Your Honor, may I make one more point --

16 COURT: Sure.

17 MR. COLE: -- for Mr. Peterson's benefit?

18 Regardless of what your ultimate ruling is, there is going
19 to be a CDC commitment. His record as reflected on that
20 commitment, specifically the denotation of three of those crimes
21 as sodomy on a child under 14 or with violence -- and I understand
22 that's how the statute reads -- had the result of his being placed
23 in ad. seg. for a number of months early in his incarceration, and
24 it is a stigma that will follow him into the CDC program.

25 And the truth is that there was never a child under 14
26 involved. It was a spouse. And I think you are perfectly aware
27 of that.

28 I don't know the full extent of your authority to make

1 an order that would ask CDC to make sure his record is correct
2 and not misleading.

3 I do know the consequences of those who get into the
4 system that have a child molest jacket hung on them, and whatever
5 sentence you mete out to Mr. Peterson, it shouldn't be exacerbated
6 by his having to go into CDC with that jacket hung on him.

7 So if there is anything the Court could do to clean that
8 up and clear it up, I would request that it do so.

9 COURT: Okay.

10 MR. HORST: Your Honor, if the People can be heard just
11 briefly on that?

12 With respect to the 286(c), those convictions that were
13 cited in the Probation report, I understand that. However, he has
14 been convicted of a felony 261.5, unlawful sexual intercourse with
15 a minor. That involved a lesser plea to a situation where he was
16 accused of forcibly raping the minor.

17 If that's not molestation of a child, I don't know what it
18 is.

19 273(d), he was convicted of inflicting corporal injury on
20 an infant.

21 So with those comments, with those facts on his record, I
22 would suggest CDC is most appropriate to make these decisions.

23 I do concur with counsel that his record should be
24 accurately reflected on his rap sheet, and we can take steps to
25 fix that.

26 COURT: Okay. Just comment again for the record how long
27 was Mr. Peterson out of custody prior to the commission of the
28 offenses for which he was recently convicted?

1 MR. COLE: Approximately six months, I believe, if I'm not
2 mistaken.

3 MR. HORST: I believe his parole was discharged, and he
4 was released from parole custody upon his last violation in
5 November of '99.

6 MR. COLE: Which was a drug violation, as I recall. Dirty
7 test.

8 COURT: In fairness to both the People and the defendant,
9 I want you to be aware that having heard this trial I anticipated
10 the sentencing hearing, and I have been thinking about this issue
11 since the trial, not just as a result of the recent filing.

12 Let me tell you what my tentative disposition would be,
13 and then if you have further comments I certainly invite them.

14 First, on the Romero motion, in considering the nature of
15 his record and the fact that he has not for a significant period
16 of time been without a violation of the law, I'm inclined to deny
17 the Romero motions fully aware of the sentence that has been
18 emphasized.

19 However, reviewing the nature of the convictions, and in
20 particular the conduct and evidence presented in support of those
21 convictions, it would be my intent to sentence Mr. Peterson to 25
22 years to life for Count One, which is the 11351.

23 Count Two would be a 25 years to life, but I think
24 accurately suggested by Probation would be stayed under Penal Code
25 Section 654.

26 Count Three is a 25 years to life, and reviewing the cases
27 that have instructed trial courts with regard to consecutive
28 versus concurrent sentencing, I believe the facts of this case

1 sufficiently warrant a concurrent sentence; that is, these
2 essentially occurred out of the same set of operative facts and
3 pretty much were on the same occasion.

4 The misdemeanors would be concurrent jail time, and he
5 would have, of course, the one-year enhancement consecutive for
6 the prior prison term.

7 And so my intent would be to impose a sentence that would
8 serve a sentence of life in prison with a minimum custody period
9 of 26 years.

10 And I'll invite your comments. First, the People.

11 MR. HORST: The People submit.

12 COURT: Probation?

13 MR. MILLER: Submitted, your Honor. Thank you.

14 MR. COLE: Submit, your Honor. Thank you.

15 COURT: Thank you. Then based upon essentially the
16 defendant's criminal record and the nature and extent of it, and
17 not repeating the reasons that are set forth by the People in
18 opposition to the motion to strike, I will find there is
19 insufficient grounds to strike the defendant's prior convictions
20 for sentencing purposes, and that motion will be denied.

21 Waive formal arraignment for judgment and sentence?

22 MR. COLE: Waive.

23 COURT: Any legal cause to not impose sentence?

24 MR. COLE: No, your Honor.

25 COURT: Mr. Peterson, you are not, of course, a candidate
26 for probation. That is going to be denied.

27 The principal term will be found in Count One for your
28 conviction of Health and Safety Code Section 11351, which is

1 possession for sale of cocaine, and based upon the strikes you
2 will receive a sentence of 25 years to life.

3 You were convicted by the jury of Count Two, which is a
4 violation of Health and Safety Code Section 11350. You will
5 similarly receive a sentence of 25 years to life, but that will be
6 stayed under Penal Code Section 654, and that stay will become
7 permanent upon your completion of the total aggregate term of this
8 sentence.

9 Count Three is a violation of Health and Safety Code
10 Section 11366, maintaining a place for using or selling cocaine.

11 The facts of this case essentially are that you were
12 residing in the motel room at the Elmwood Motel. The evidence is
13 that there was drug use at that facility.

14 The evidence further is that you appeared at that motel,
15 immediately attempted to flee through the window, and the cocaine
16 was found near your presence.

17 I find that for purposes of concurrent sentencing,
18 reviewing People vs. Deloza, a 1998 case found at 18 Cal.4th 585,
19 reviewing the case of People vs. Durant, 1999 case, 68 Cal.App.4th
20 1393; People vs. Hendrix, a 1997 case found at 16 Cal.4th, 508, as
21 well as a number of other cases similarly situation, I find that
22 this crime, that is, Count Three, occurred basically on the same
23 occasion as Counts One and Two, and that there is a close temporal
24 and spacious proximity between the acts underlying those
25 convictions.

26 I also find that they arise out of the same set of
27 operative facts; that is, that the facts of the case which prove
28 the underlying acts on which this defendant has been found

1 guilty with regard to each of those three counts.

2 So for those reasons you will be sentenced in Count Three
3 to 25 years to life, and that will run concurrent.

4 Count Four is Health and Safety Code 11550, subparagraph
5 (a). For that misdemeanor you will receive six months, and that
6 will run concurrent.

7 Count Five is Business and Professions Code Section 4140.
8 For that you will receive six months, and that will run
9 concurrent.

10 And you have the one-year enhancement for the prior prison
11 term under Penal Code Section 667.5, subparagraph (b).

12 So you have essentially a 26 years to life. And more
13 appropriately stated, it is the intent of the Court in imposing
14 that sentence that you serve a sentence of life in prison with a
15 minimum custody period of 26 years.

16 You have credit for 177 actual days and 88 conduct, for a
17 total of 265.

18 I would remind you that you will, of course, be required
19 to register as a convicted narcotics offender under Health and
20 Safety Code Section 11590 if you do obtain parole.

21 I will order a restitution fine under Penal Code Section
22 1202.4 of \$5,000.

23 And under Penal Code Section 1202.45 a similar fine will
24 be imposed, unless you are granted parole and it is suspended.

25 You were court-appointed?

26 MR. COLE: Yes, your Honor.

27 COURT: I will waive court-appointed fees in light of the
28 state prison commitment.

1 MR. COLE: Thank you, your Honor.

2 COURT: The defendant is remanded to the custody of the
3 sheriff for transportation to the Department of Corrections.

4 In light of the comments earlier regarding his record and
5 the nature of that record, I am going to direct that the reporter
6 prepare a transcript of these proceedings.

7 I will direct that the defendant's motion to strike the
8 prior convictions, the People's statement of aggravation and in
9 opposition to that motion, and the transcript of these sentencing
10 proceedings be forwarded with the defendant to the Department of
11 Corrections for their review.

12 MR. COLE: Thank you, your Honor.

13 COURT: Thank you.

14 --oo--
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1 REPORTER'S CERTIFICATE
2
3
4 STATE OF CALIFORNIA)
5 COUNTY OF PLACER) ss.
6
7
8 I, JON SASEK, Certified Shorthand Reporter of the
9 Superior Court, County of Placer, State of California,
10 do hereby certify that the foregoing pages, 1 through 11,
11 inclusive, comprise a full, true and correct transcript of
12 the proceedings had in the above-entitled matter held on Friday,
13 August 25, 2000, to the best of my ability.
14
15 I also certify that if portions of the transcript are
16 governed by the provisions of C.C.P. 237(a)(2), that all
17 personal juror identifying information has been redacted.
18
19 IN WITNESS WHEREOF, I have subscribed this certificate
20 at Auburn, California, this _____ day of August, 2000.
21
22
23
24
25
26
27
28

20 JON SASEK, CSR 1650
21 Official Court Reporter
22 County of Placer

1 and that a term was served as described in Penal Code section
 2 667.5 for said offense(s), and that the did not remain free of
 3 prison custody for, and did commit an offense resulting in a felony
 4 conviction during, a period of five years subsequent to the
 5 conclusion of said term.

6

7 **SPECIAL ALLEGATION - ELIGIBILITY FOR PROBATION**

8 It is further alleged as to count one, two, three that said
 9 defendant Dennis Roy Peterson, was convicted of the following
 10 felonies, within the meaning of Penal Code section 1203(e)(4):

11

12 <u>On/about</u>	13 <u>Rape Spouse</u>	14 <u>Violation</u>	15 <u>Case No.</u>	16 <u>County</u>
10/3/85	Domestic Violence	262(a)	71859	Sacramento
		262(a)		
	All same set of facts	262(a)		
		286(c)		
		286(c)		
		286(c)		
		288a(c)		
		245		
		273d		
		261.5		
17 all one strike	Count 10	211	10127/B-61827	Solano
	of second strike	12022.5		
18 1/7/75		261.3		Second strike

20

21 I declare under penalty of perjury that the foregoing is true
 22 and correct. Executed March 22, 2000 at Auburn, Placer County,
 23 California.

24

BRADFORD R. FENOCCHIO, DISTRICT ATTORNEY

25

26

By:



GAREN J. HORST,
DEPUTY DISTRICT ATTORNEY

27

GJH

1
2
3
4
SPECIAL THREE STRIKES ALLEGATION

5
6 It is further alleged pursuant to Penal Code sections 1170.12(a)
7 through (d) and 667(b) through (i) as to count one that the
8 defendant(s) Dennis Roy Peterson, has suffered the following prior
9 conviction(s) of a serious or violent felony or juvenile
10 adjudication:

11
12

<u>On/about</u>	<u>Violation</u>	<u>Case No.</u>	<u>County</u>
10/3/85	262(a)	71859	Sacramento
	262(a)		
	262(a)		
	286(c)		
	286(c)		
	286(c)		
	288a(c)		
1/7/75	211	10127/B-61827	Solano
	12022.5		
	261.3		

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19
ALLEGATION OF PRIOR PRISON TERM

20 It is further alleged as to count one pursuant to Penal Code
21 Section 667.5(b) that the defendant(s) Dennis Roy Peterson, has
22 suffered the following prior conviction(s):

23

<u>On/about</u>	<u>Violation</u>	<u>Case No.</u>	<u>County</u>
10/3/85	262(a)	71859	Sacramento
	262(a)		
	262(a)		
	286(c)		
	286(c)		
	286(c)		
	288a(c)		

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1 to do so is a crime pursuant to Health and Safety Code section
2 11594."

3 **COUNT FOUR**

4 On or about March 2, 2000, in the County of Placer, State of
5 California, the crime of UNDER INFLUENCE OF A CONTROLLED SUBSTANCE,
6 in violation of section 11550(a) of the Health & Safety Code, a
7 misdemeanor, was committed by Mary Margaret Ferrell, Robert William
8 Elkins, Dennis Roy Peterson, and Karen Lynn Ristau, who did willfully
9 and unlawfully use and be under the influence of a controlled
10 substance, to wit, cocaine.

11
12 "NOTICE: Conviction of this offense will require you to
13 register pursuant to Health and Safety Code section 11590. Failure
14 to do so is a crime pursuant to Health and Safety Code section
15 11594."

16 **COUNT FIVE**

17 On or about March 2, 2000, in the County of Placer, State of
18 California, the crime of UNAUTHORIZED POSSESSION OF HYPODERMIC NEEDLE
19 OR SYRINGE, in violation of section 4140 of the Business &
20 Professions Code, a misdemeanor, was committed by Dennis Roy
21 Peterson, who did willfully and unlawfully have in his possession and
22 under his/her control a hypodermic needle and syringe.

1 "Notice: Conviction of this offense will require you to
2 register pursuant to Health and Safety Code section 11590. Failure
3 to do so is a crime pursuant to Health and Safety Code section
4 11594."

5 **COUNT TWO**

6 On or about March 2, 2000, in the County of Placer, State of
7 California, the crime of POSSESSION OF A CONTROLLED SUBSTANCE, in
8 violation of section 11350(a) of the Health & Safety Code, a felony,
9 was committed by Mary Margaret Ferrell and Dennis Roy Peterson, who
10 did willfully and unlawfully have in his/her possession a controlled
11 substance, to wit, cocaine.

12
13 "Notice: Conviction of this offense will require you to
14 register pursuant to Health and Safety Code section 11590. Failure
15 to do so is a crime pursuant to Health and Safety Code section
16 11594."

17 **COUNT THREE**

18 On or about March 2, 2000, in the County of Placer, State of
19 California, the crime of MAINTAINING PLACE FOR SELLING OR USING
20 CONTROLLED SUBSTANCE, in violation of section 11366 of the Health &
21 Safety Code, a felony, was committed by Mary Margaret Ferrell and
22 Dennis Roy Peterson, who did willfully and unlawfully open and
23 maintain a place for the purpose of unlawfully selling, giving away,
24 and using a controlled substance, to wit, cocaine.

25
26 "Notice: Conviction of this offense will require you to
27 register pursuant to Health and Safety Code section 11590. Failure



THE FOREGOING INSTRUMENT
IS A CORRECT COPY OF THE
ORIGINAL ON FILE IN THIS
OFFICE.

ATTEST:

John Mendes
Superior Court Clerk,
County of Placer, State
of California.
By [Signature]

1 BRADFORD R. FENOCCHIO,
2 Placer County District Attorney
State Bar No. 80027
11562 B Avenue
3 Auburn, CA. 95603-2687
4 Tel: (530) 889-7000
5 Fax: (530) 889-7129

FILED
PLACER COUNTY
SUPERIOR COURT OF CALIFORNIA

APR 10 2000

JOHN MENDES
EXECUTIVE OFFICER & CLERK
By _____ Deputy

7
8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF PLACER

10 --oo--

11 THE PEOPLE OF THE NOS. 62-013569C
12 STATE OF CALIFORNIA, 62-013569B
Plaintiff, 62-013569A
13 -vs- 62-013569D

14 DENNIS ROY PETERSON FIRST AMENDED
15 MARY MARGARET FERRELL FELONY COMPLAINT
aka Maria Ferrelle
16 ROBERT WILLIAM ELKINS
17 KAREN LYNN RISTAU
aka Karen Lynn Douglas

Defendants.

COMPLAINT DEEMED
INFORMATION AND
FILED ON APR 17 2000
John Mendes, Deputy Clerk

20 THIRD STRIKE COUNT ONE

21 On or about March 2, 2000, in the County of Placer, State of
22 California, the crime of POSSESSION FOR SALE OF A CONTROLLED
23 SUBSTANCE, in violation of section 11351 of the Health & Safety Code,
24 a felony, was committed by Dennis Roy Peterson, who did willfully and
25 unlawfully possess for sale and purchase for sale a controlled
26 substance, to wit, cocaine.

COURT _____
D.A. _____
P.D. _____
ATTY. _____
SEN. JUDGE
PARENT _____

PLACER COUNTY PROBATION DEPARTMENT
11564 "C" AVENUE
AUBURN, CA 95603
(530) 889-7900

RECEIVED **FILED**
Placer County Superior Court PLACER COUNTY
SUPERIOR COURT OF CALIFORNIA

AUG 21 2000

AUG 25 2000

2 of 86 FILED

COURT PLACER COUNTY
SUPERIOR COURT NO. 3

SUPERIOR COURT OF CALIFORNIA

SUPERIOR COURT OF CALIFORNIA - COUNTY OF PLACER

5 PEOPLE OF THE STATE OF CALIFORNIA,) Department: 13
6 Plaintiff,) Judge: Roeder
7 vs.) Case No.: 62-13569
8 DENNIS ROY PETERSON,)
9 Defendant.)
10) X Presentence

11 AGE: 45 BORN: September 9, 1954

12 | **ADDRESS:** Placer County Jail

13 DATE COMMITTED: March 2, 2000

14 DATE OF ARREST: March 2, 2000

TIME IN CUSTODY: 177 days (actual)

FELONY COMPLAINT FILED: First Amended - March 22, 2000

INFORMATION FILED: Not Applicable

GUILTY BY: Jury Trial

20 GUILTY OF: COUNT ONE: 11351 H&S, POSSESSION FOR SALE OF A
CONTROLLED SUBSTANCE (COCAINE), a felony;
21 COUNT TWO: 11350(a) H&S, POSSESSION OF A CONTROLLED
SUBSTANCE (COCAINE), a felony;
22 COUNT THREE: 11366 H&S, MAINTAINING A PLACE FOR
SELLING OR USING A CONTROLLED SUBSTANCE (COCAINE), a
felony;
23 COUNT FOUR: 11550(a) H&S, UNDER THE INFLUENCE OF A
CONTROLLED SUBSTANCE (COCAINE), a misdemeanor;
24 COUNT FIVE: 4140 B&P, POSSESSION OF A HYPODERMIC
NEEDLE OR SYRINGE, a misdemeanor;

COURT _____
D.A. _____
P.D. _____
ATTY. _____
SEN. JUDGE _____
PARENT _____

1 Additionally, the defendant admitted the following
2 allegations:

3 Allegation within the meaning of Sections 1170.12(a)
4 through (d) and 667(b) through (i) PC, admitting ten
5 prior violent serious felony convictions; to include
6 seven on October 3, 1985, and three on January 1,
7 1975, making this a Special Three Strikes
8 Allegation.

9 Allegation within the meaning of Section 667.5(b)
10 PC, admitting one prior prison term.

11 Allegation within the meaning of Section 1203(e)(4)
12 PC, as to COUNTS ONE, TWO and THREE, alleging 13
13 prior felony convictions.

14 **REPRESENTED BY:** Larry Cole
15 1407 Lincoln Way
16 Auburn, CA 95603

17 **REFERRAL TO PROBATION OFFICER:** July 12, 2000

18 **JUDGEMENT AND SENTENCING:** August 25, 2000

19 **PROBATION OFFICER'S RECOMMENDATION:** Department of Correction

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COURT _____
DA _____
P.O. _____
ATTY. _____
SEN JUDGE _____
PARENT _____

1 **PRESENT OFFENSE:**

2 The defendant was found in possession of, and under the
3 influence of, cocaine.

4 The following information was taken, in summary, from
5 Placer County Special Investigations Unit Report No. P00-036-AU,
6 and Placer County District Attorney Records:

7 On March 2, 2000, Special Investigations Unit (SIU) agents
8 executed a search warrant on the defendant, PETERSON, at the
9 Elmwood Motel. As SIU agents conducted a surveillance of the
10 motel, they observed a male, thought to be PETERSON, enter
11 Room 215. Because of this, agents approached that room. Upon
12 their arrival, they saw the front door partially open. As the
13 agents knocked on the door and announced, "Sheriff's Department,
14 search warrant," the door opened even more and they saw three
15 people inside the room. Sitting on the bed together were Robert
16 Elkins and Christy Rustau. Mary Farrell was standing between the
17 bed and a desk. On top of the desk the agents observed a metal
18 spoon containing a substance later identified as cocaine. All
19 three persons were detained and placed in handcuffs. PETERSON
20 was not present in the room. As the agents spoke with the three
21 individuals detained, all were noted displaying objective systems
22 of being under the influence of a controlled substance.

23 ///

24 ///

COURT _____
D.A. _____
P.D. _____
ATTY. _____
SEN. JUDGE _____
PARENT _____

1 Farrell told agents she was on informal probation with search and
2 seizure conditions and it was discovered that Elkins was on
3 parole supervision.

4 Agents searched the room and located a metal spoon
5 containing approximately .9 grams of a substance later identified
6 as cocaine, several pieces of wet cotton saturated with
7 approximately 2.9 grams of a substance later identified as
8 cocaine, paperwork addressed to both PETERSON and Farrell, a
9 metal lid containing approximately .51 grams of a substance later
10 identified as cocaine, four empty paper bindles and two clear
11 capsules containing approximately 1.4 grams of a substance later
12 identified as cocaine.
13

14 Having been read her Miranda rights, Farrell stated to the
15 agents that the motel room was under her name and that she and
16 PETERSON had been living there for approximately three weeks.
17 She stated she had used cocaine earlier in the day and said all
18 the cocaine in the room belonged to her. Farrell stated she got
19 the cocaine from PETERSON and denied selling that substance.
20 Farrell was arrested and transported, without incident, to the
21 Placer County Jail.
22

23 Agents contacted the Auburn Police Department dispatch and
24 requested a bulletin be issued for the arrest of PETERSON. Later
25 that day, agents received a telephone call from the Auburn Police
26 Department notifying them they had arrested PETERSON.
27

COURT _____
D.A. _____
P.D. _____
ATTY. _____
SEN. JUDGE _____
PARENT _____

1 Auburn officers stated they had received a telephone call
 2 from an anonymous caller stating PETERSON was in his motel room.
 3 Upon the officers' arrival, PETERSON saw them and tried to flee
 4 out of a second story motel room window. PETERSON was found
 5 outside the motel hiding in the bushes. Found within inches of
 6 his person was a red handkerchief, hypodermic needles/syringes, a
 7 paper bindle containing 1.5 grams of a substance later identified
 8 as cocaine, a ziplock baggie containing approximately 28 grams of
 9 a substance later identified as cocaine, other ziplock baggies
 10 containing approximately .9 grams and .2 grams of a substance
 11 later identified as cocaine.
 12

13 Following his Miranda advisement, PETERSON made the
 14 following statements in summary:

15 PETERSON stated he had been living at the Elmwood Motel with
 16 Farrell for approximately three weeks. He said he knew nothing
 17 of the cocaine found in the motel room and denied any knowledge
 18 of the cocaine found near him. He did admit to agents that he
 19 occasionally used cocaine and sold it to others to pay for living
 20 expenses. He told agents that his cocaine source lives in El
 21 Dorado County.

23 As a result of the previous search and this subsequent
 24 arrest of PETERSON, officers discovered a total of approximately
 25 36 grams of cocaine, hypodermic needles/syringes, packaging and
 26 other drug paraphernalia indicating sales of that substance.
 27

COURT _____
D.A. _____
P.D. _____
ATTY. _____
SEN. JUDGE _____
PARENT _____

1 PETERSON was transported, without incident, to the Placer
 2 County Jail for booking where he has remained in custody since.

3 On July 12, 2000, PETERSON was convicted by Jury Trial of
 4 the three felony and two misdemeanor charges noted on the face
 5 sheet of this report. During the conduct of that trial, PETERSON
 6 had earlier admitted the allegations noted on the face sheet of
 7 this report. On July 12, 2000, the Court referred this matter to
 8 the Probation Department for a Presentence Investigation Report
 9 to be heard August 25, 2000.
 10

11

12 **STATUS OF CODEFENDANTS:**

13 On June 20, 2000, Mary Ferrell pled guilty to violating
 14 Section 11350(a) H&S Code, Possession of a Controlled Substance,
 15 a felony, 11366 H&S Code, Maintaining a Place for Sale, a felony
 16 and 11550(a) H&S Code, Under the influence of a Controlled
 17 Substance, a misdemeanor. Additionally, in Case 62-14298,
 18 Farrell admitted a violation of Section 242 PC, Battery, a
 19 misdemeanor. On July 19, 2000, Farrell was sentenced to a two
 20 year term of confinement in the California Department of
 21 Corrections.
 22

23 District Attorney records reflect charges against Robert
 24 William Elkins were dismissed without prejudice.

25 ////

26 ////

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COURT _____
O.A. _____
P.D. _____
ATTY. _____
SEN.JUDGE _____
PARENT _____

1 On May 23, 2000, Karen Lynn Rustau admitted violating
2 Section 11350(a) H&S Code, Possession of a Controlled Substance,
3 a felony and 243(b) PC, Battery on Peace Officer/Firefighter, a
4 specified misdemeanor. Sentencing was set for July 25, 2000,
5 with a recommendation for four years formal probation and 90 days
6 confinement in the Placer County Jail.
7
8

9 **ENHANCEMENTS:**

10 Because of the allegations admitted by the defendant, he is
11 both statutorily and presumptively ineligible for probation. By
12 law, the defendant can receive no other sentence than a
13 California Department of Corrections term which must be a term of
14 25 years to life. Further, the defendant has admitted one prior
15 prison term and must receive a term of confinement in the
16 California Department of Corrections of one year in addition to,
17 and consecutive to, any other term ordered.
18
19

20 **DEFENDANT'S STATEMENT - OFFENSE:**

21 PETERSON did not provide a written description of the
22 present offense. However, during his probation interview, he
23 made the following verbal statements in summary:
24 //
25 //
26 //
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COURT _____
D.A. _____
P.D. _____
ATTY. _____
SEN. JUDGE _____
PARENT _____

1 PETERSON said he disagreed entirely with the
2 police/investigation reports. PETERSON said he came to the
3 Auburn area, "to try to get help," for his acknowledged drug
4 addiction. He stated he was, "the victim of circumstances."
5 PETERSON said that his girlfriend (Farrell) had the drugs but,
6 because PETERSON was in the same room, he was equally guilty.
7 PETERSON stated that, since paroled from the California
8 Department of Corrections, he had been trying to get help by
9 getting into a drug rehabilitation program. PETERSON said he was
10 discharged from parole November, 1999.

12

13 **DEFENDANT'S STATEMENT - PROBATION:**

14 PETERSON did not provide a written statement regarding the
15 granting of probation. During his probation interview, PETERSON
16 stated that he was, "not expecting probation." PETERSON was
17 aware of his probation ineligibility and the consequences of the
18 allegations that he pled.

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COURT _____
DA _____
P.D. _____
ATTY. _____
SEN. JUDGE _____
PARENT _____

1 PRIOR RECORD:

2 A copy of the defendant's criminal history as obtained under
 3 C.I.I. No. A03959757, reflects the following:

4 <u>DATE</u>	5 <u>AGENCY</u>	6 <u>CHARGE</u>	7 <u>DISPOSITION</u>
12-23-69	CUSTODY:CYA CAYA PERKINS #93452	CT: 01, - JUVENILE RUNAWAY	
07-31-70			PAROLE RECV'D BY: CAPA YOUTH AUTHORITY
03-31-72			DISPO: DISCHARGED FROM PAROLE COM: CHRG-RANCH RUNAWAY/SEN FROM SACRAMENTO COUNTY
09-10-74	CAMC SACRAMENTO #54153T	CT: 01, 23102(A) VC-MISD DRUNK DRIVING ON HIGHWAY	CONVICTED SEN" 4 DS JL CTS, \$190 FINE
01-06-75	CASC SOLANO #10127	CT: 01, 211 PC-ROBBERY	CONVICTED
01-07-75	CUSTODY:CDC CASD CORRECTIONS #B-61827	CT: 01, 211 PC- ROBBERY:FIRST DEGREE	SEN: 5 YR TO LIFE CS W/CT:02,
		CT: 02, 12022.5 PC-W/USE OF FIREARM	5 YR TO LIFE,
		CT: 03, 261.3 PC-RAPE BY THREAT	SEN: 3 YR TO LIFE CC W/CTS 1 & 2,
////			
////			

COURT	
D.A.	
P.D.	1
ATTY.	2
SEN. JUDGE	3
PARENT	

1 09-05-78

DISPO:
PAROLED
RECV'D BY:
CAPA SACRAMENTO
CO

4 10-29-79

DISCHARGED FROM
PAROLE

6 08-17-81

CAMC SACRAMENTO
#56801F CT: 03,
23102 VC-
MISDEMEANOR/DUI
LIQUOR/DRUG

CONVICTED
SEN:
12 MO PROB., FINE
OR 12 DS JL

8 //

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10 //

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COURT	
D.A.	
P.D.	
ATTY.	
SEN. JUDGE	
PARENT	

Strike two

1 12-02-85 CASD CORRECTIONS #D18704
 CT: 01,
262(A) (1) PC-RAPE
 OF SPOUSE BY
 FORCE
 CRT #:71859

5 CT: 02-03,
262(A) (1) PC-RAPE
 OF SPOUSE BY
 FORCE
 CRT #:71859

9 CT: 04-06,
286(C) PC-SODOMY
 W/PERSON UND 14
 YR OR W/FORCE
 CRT #:71859

13 CT: 07,
288A(C) PC-ORAL
 COP:14/ETC OR BY
 FORCE/ETC
 CRT #:71859

17 CT: 08,
 245(A) PC-ASSAULT
 WITH DEADLY
 WEAPON
 CRT #:71859
 245(A) PC-ASSAULT
 WITH DEADLY
 WEAPON
 CRT #: 71859

21 CT: 09,
 273D PC-INFILCT
 INJURY UPON CHILD
 CRT #:71859

23 Count 10 DA used →
 to lie to the court
 Saying it was my first
 Strike. All矚s of because
 its my first strike and
 I'll be 162 years old
 These are the counts showing my strikes

23 CT: 10,
261.5 PC-UNLAWFUL
SEXUAL
INTERCOURSE
W/MINOR 17 yrs

SEN FROM:
 SACRAMENTO CO CRT
 #71859
 SEN:
 244 MOS PRISON-

COURT _____
D.A. _____
P.D. _____
ATTY. _____
SEN. JUDGE _____
PARENT _____

1	05-07-96	CUSTODY:CDC CASD CORRECTIONS #D18704	CT: 01, VIOLATION OF PAROLE	-TO FINISH TERM COM: CCN-5193P316909
4	05-08-98	CUSTODY:CDC CASD CORRECTIONS #D18704	CT: 01, VIOLATION OF PAROLE	-TO FINISH TERM
7	07-23-99	CASP TRACY #D18704	CT: 01, VIOLATION OF PAROLE	-TO FINISH TERM
8				
9				
10		A check with the Department of Motor Vehicles under		
11		California Driver's License No.E0824120, reflects the defendant's		
12		license is valid, with no departmental actions, convictions,		
13		failures to appear or accidents.		
14				
15		<u>SOCIAL STUDY:</u>		
16		The following information was provided by the defendant		
17		during his probation interview, and has not been verified:		
18				
19		DENNIS ROY PETERSON was born September 9, 1954, in		
20		Sacramento, California. He is the first of two children born to		
21		the married union of Roy Edward and Anita Peterson (nee:		
22		Rosenvelt). PETERSON'S parents' separated and divorced when he		
23		was age five and he has had no contact with his father for		
24		approximately 20 years. The defendant's mother is a retired		
25		business owner.		
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PARENT _____

1 PETERSON said he maintains no contact with any of his family
 2 members including a younger sister and two half brothers by his
 3 mother from two different marriages. He maintains contact only
 4 with a cousin, Dale Ellis, with whom he lived at 6111 Rio Linda
 5 Boulevard in Rio Linda, California 95673. PETERSON said that,
 6 except for a period of incarceration in California Department of
 7 Corrections, he has lived his entire life in Roseville, Rio Linda
 8 and Sacramento. He described his childhood as, "rotten," stating
 9 he was molested at age five by his step-father. PETERSON said,
 10 "(he) led a life of crime since - also a life of alcohol and
 11 drugs." PETERSON said that his mother had several
 12 boyfriends/husbands and, "all of them beat us - we were tossed
 13 back and forth between our mother and father."

14 PETERSON last attended Rio Linda High School but quit,
 15 during the tenth grade, to enlist in the Army National Guard. He
 16 earned his high school GED equivalency while in training. The
 17 defendant has attended no other formal education.
 18

19 As previously noted, PETERSON served in the Army National
 20 Guard and received an Honorable Medical Discharge as a Private
 21 E-2.
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1 PETERSON married Patty Chestnut in 1972 and they divorced in
 2 1975. He married Denise Shannon in 1983 and they divorced in
 3 1985. The defendant married Barbara Huddleston in 1995 and they
 4 separated in 1997, but are not yet divorced. The defendant has
 5 two daughters, ages 28 and 17. He said he has fathered no other
 6 children.

7 PETERSON describes his health as, "poor," stating he has a
 8 serious allergy problem to molds and air conditioned air and
 9 suffers from arthritis. The defendant currently takes
 10 prescription medication for allergys, arthritis and anxiety.

12 Regarding his history of drug and alcohol use, PETERSON
 13 stated that he is a, "alcoholic and drug addict." He said he
 14 began consuming alcohol at age 18 and stated, "all (he) want(s)
 15 to do when (he) get(s) out of custody is drink and do drugs."
 16 PETERSON said that his drug of choice is methamphetamine and he
 17 will, "drink anything." PETERSON stated that he has never been
 18 to a drug or alcohol treatment program but that he was number 14
 19 on a waiting list for South Placer Recovery Home when arrested in
 20 the instant offenses.

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ATTY. _____
SEN. JUDGE _____
PARENT _____

1 FINANCIAL CONSIDERATION:

2 When arrested in the instant offenses, PETERSON had been
3 working, for two weeks, as a cook at the Coffee Kup Restaurant in
4 Auburn, California. PETERSON said he has worked at several gas
5 stations and has been involved in direct sales and window
6 installation.

7 Based on the mandated disposition in this matter, local
8 general fines and penalties are not recommended. However, a
9 State Restitution Fund Fine and payments to the State Restitution
10 Fund in access of the minimum mandated will be recommended.

12

13 PROBATION ELIGIBILITY:

14 Pursuant to Section 1170.12(a) through (d) and 667(b)
15 through (i) PC, the defendant is statutorily ineligible for
16 probation.

17 Because the defendant has admitted numerous prior felony
18 convictions, he is presumptively ineligible for probation
19 pursuant to Section 1203(e)(4) PC, unless the Court deems this an
20 unusual case for the purpose of granting probation.

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ATTY. _____
SEN JUDGE _____
PARENT _____

1 **RULE 413 - CRITERIA AFFECTING PROBATION IN UNUSUAL CASES:**

2 Having considered the criteria by which the Court may deem
3 this case unusual for the purpose of granting probation, this
4 officer finds no facts which would indicate the existence of an
5 unusual case. It is recommended the Court not deem this case
6 unusual. Regardless, the defendant remains statutorily
7 ineligible for probation.

9 **RULE 421 - CIRCUMSTANCES IN AGGRAVATION:**

10 (a) Facts relating to the crime:

11 (8) *The manner in which the crime was carried out
12 indicates planning, sophistication, or professionalism.*

13 Elements of the offense, possession and sales of illegal
14 narcotics/drugs, indicate planning with some sophistication and
15 professionalism.

16 (10) *The crime involved a large quantity of
17 contraband.*

18 These crimes involved a large quantity of illegal
19 narcotics/drugs.

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1 (b) Facts relating to the defendant:

2 (2) *The defendant's prior record of convictions as an
adult or sustained petitions in juvenile delinquency
proceedings are numerous or of increasing seriousness.*

3
4 The defendant has a lengthy prior record with numerous
5 felony convictions.
6

7
8 (3) *The defendant has served a prior prison term.*
9

10 The defendant has served a prior prison term. However,
11 because of an admitted allegation within the meaning of Section
12 667.5(b) PC, this factor cannot be used to aggravate this
13 sentencing.
14

15 (5) *The defendant's prior performance on probation was
16 unsatisfactory.*

17 The defendant's record reflects prior grants of probation
18 and parole were revoked. His probation/parole performance was
19 unsatisfactory; although he was, according to his own report,
20 able to successfully complete parole.
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PARENT _____

1 **RULE 423 - CIRCUMSTANCES IN MITIGATION:**

2 **(a) Facts relating to the crime:**

3 None.

4 **(b) Facts relating to the defendant:**

5 None.

7 **RULE 424 - CONSIDERATION OF APPLICABILITY OF SECTION 654 PC:**

9 It appears that the felony violations in COUNTS ONE and TWO
10 arise from the same facts and involve the same information and
11 conduct. Therefore, it appears that Section 654 PC would apply
12 requiring a stay of imposition of sentence on one of these two
13 counts. However, the felony violation in COUNT THREE and the
14 misdemeanor violations in COUNTS FOUR and FIVE arise from
15 separate sets of facts involving different conduct and
16 information. Therefore, Section 654 PC does not appear to apply
17 in the sentencing of these counts.

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ATTY. _____
SEN. JUDGE _____
PARENT _____

1 **RULE 425 - CRITERIA FOR CONCURRENT OR CONSECUTIVE SENTENCING:**

2 (a) Facts relating to the crime, including whether or not:

3 (1) *The crimes and their objectives were predominantly independent of each other.*

5 While the conduct in COUNTS ONE and TWO, appear
 6 predominately depended upon each other and involve a Section 654
 7 PC issue, the conduct in COUNT THREE involves a separate
 8 objective and different facts. Therefore, consecutive sentencing
 9 for the felony violation in COUNT THREE appears appropriate and
 10 is recommended.

12 Although consecutive sentencing for the two misdemeanor
 13 violations in COUNTS FOUR and FIVE would be permissible by law,
 14 concurrent sentencing will be recommended for those counts.

16 **ALTERNATIVE SENTENCING:**

17 Due to the mandated disposition in this matter, Community
 18 Service and Alternative Sentencing were not discussed.

21 **TIME SERVED CREDITS - Section 2900.5/ 4019 PC:**

22 The defendant was in custody in this case as follows:

<u>Facility</u>	<u>Dates</u>		<u>Actual</u> <u>Days Served</u>	<u>Case Law</u> <u>Credit</u>	<u>Total</u>
	<u>From</u>	<u>To</u>			
Placer Co. Jail	03-02-00	08-25-00	177	88	265
//////					
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D.A. _____
P.D. _____
ATTY. _____
SEN. JUDGE _____
PARENT _____

1 **EVALUATION:**

2 Appearing before the Court for sentencing is DENNIS ROY
3 PETERSON, age 45, having been found guilty by Jury Trial of
4 violating Sections 11351, 11350(a) and 11366 H&S Code, felonies,
5 and 11550(a) H&S Code and 4140 Business and Professions Code,
6 misdemeanors. Additionally, PETERSON admitted allegations within
7 the meanings of Sections 1170.12 (a) through (d) and 667(b)
8 through (i), 667.5(b) and 1203(e)(4) PC. In these offenses, the
9 defendant was found in possession of, and under the influence of,
10 cocaine and evidence showed that he had been involved in the
11 sales of that substance. It appears the defendant's conduct was
12 motivated by his acknowledged drug addiction and by personal
13 gain.

14 Because of the allegations the defendant has admitted in
15 conjunction with his convictions in this matter, he is
16 statutorily ineligible for probation pursuant to Sections 1170
17 and 667 PC. Additionally, PETERSON is also presumptively
18 ineligible for probation pursuant to Section 1203(e)(4) PC,
19 unless the Court deems this case unusual. As previously noted in
20 this report, it does not appear to serve any purpose for the
21 Court to find this case unusual and, indeed, there are no facts
22 which appear to apply for that purpose.

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SEN. JUDGE _____
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1 PETERSON'S sentence in this matter is mandated by law.
 2 COUNT ONE, the violation of Section 11351 H&S Code, provides the
 3 greatest range of punishment and is selected as the base term.
 4 Nonetheless, pursuant to the three strikes law, an indeterminate
 5 term of 25 years to life is mandated for this conviction.
 6 COUNT TWO, the violation of Section 11350(a) H&S Code appears to
 7 arise from the same set of facts and conduct and, therefore, as
 8 previously discussed in this report, a stay of imposition of
 9 sentence appears appropriate pursuant to Section 654 PC.
 10 However, the violation of Section 11366 H&S Code in COUNT THREE,
 11 arises from separate facts and conduct and should be sentenced
 12 consecutively. Pursuant to Sections 1170 and 667 PC, a
 13 consecutive indeterminate term of 25 years to life is mandated.
 14 The misdemeanor violations in COUNTS FOUR and FIVE are subject to
 15 local confinement with a maximum term of one year in COUNT FOUR
 16 and six-months in COUNT FIVE. Concurrent sentencing for these
 17 counts is recommended. The allegation within the meaning of
 18 Section 667.5(b) PC mandates a determinate term of one-year to be
 19 served in addition to, and consecutive to, any other term
 20 ordered. Therefore, an indeterminate term of 50 years to life is
 21 recommended together with a determinate term of 1 year in the
 22 California Department of Corrections.
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P.D. _____
ATTY. _____
SEN.JUDGE _____
PARENT _____

1 Notwithstanding the defendant's acknowledged and admitted
 2 drug addiction, his conviction in these matters, together with
 3 his admitted allegations, prohibit confinement in any other
 4 facility than California Department of Corrections. Therefore, a
 5 commitment to the California Rehabilitation Center is not
 6 considered.

<u>Base Term</u>	<u>Range</u>	<u>Impose</u>
CT: 01, 11351 H&S	25 years to life	25 years to life
CT: 02, 11350(a) H&S	25 years to life	25 years to life (stayed per 654 PC)
CT: 03, 11366 H&S	25 years to life	25 years to life (c/s mandated)
CT: 04, 11550(a) H&S	1 year (local)	6 mth ✓ year (c/c)
CT: 05, 4140 B&P	6 months (local)	6 months (c/c)

17 Allegation

18 667.5(b) PC	1 year (c/s mandated)	1 year (c/s mandated)
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19	Indeterminate:	50 years to life
20	Determinate:	1 year

21 COURT INDICATION:

22 None.

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COURT _____
D.A. _____
P.D. _____
ATTY. _____
SEN. JUDGE _____
PARENT _____

RECOMMENDATION:

IT IS THEREFORE RESPECTFULLY RECOMMENDED probation be denied, and DENNIS ROY PETERSON be committed to the Department of Corrections for the indeterminate term of 50 years to life plus consecutive determinate term of 1 year; with credit for time served of 265 days (177 actual/88 conduct).

IT IS FURTHER RECOMMENDED the defendant pay a RESTITUTION
FINE to the State Restitution Fund in the amount of \$1,000,
through and at a rate to be determined by the Placer County
Revenue Services Division. (1202.4(b)PC)

IT IS FURTHER RECOMMENDED the defendant pay an additional RESTITUTION FINE in the amount of \$1,000. This additional RESTITUTION FINE shall be suspended unless the person's parole is revoked. (1202.45 PC)

Respectfully submitted,

NORMAN MILLER
Deputy Probation Officer

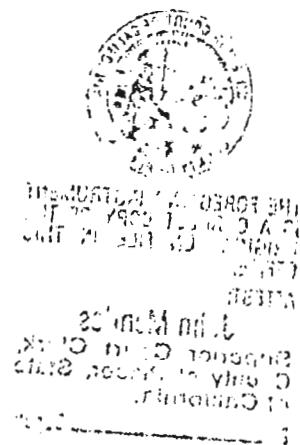
NM/bj
August 21, 2000

Approved by:

DAVID McMANUS
Senior Deputy Probation Officer

I have read and considered the foregoing report and recommendation of the Probation Officer.

JAMES L. ROEDER
JUDGE OF THE ABOVE ENTITLED COURT



PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA)
) SS

County of SACRAMENTO)

[C.C.C. §§446, 2015.5; 28 U.S.C. §1746]

I, Dennis Ray Peterson, am a resident of the State of California and am over the age of eighteen years and am not a party to the above action. My address is listed below.

On 11-4-24, I served the following documents:

by placing a true copy thereof enclosed in a sealed envelope with First Class postage thereon fully prepaid in the United States mail by delivering to prison officials for processing through the Institution's internal legal mail system at Ione, California, addressed as follows:

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed in the County of Amador, California on 11-4-24.

Mt. Lassen State Prison
P.O. Box 409090
Ione, CA 95640

Dennis Ray Peterson

Pursuant to the holding of the United States Supreme Court in Houston v Lack 108 S.Ct. 2379, 487 U.S. 266, 101 L.Ed.2d 245 (1988) and FRAP, Rule 4(c) inmate legal documents are deemed filed on the day they are delivered to prison staff for processing and mailing via the Institution's internal legal mail procedures.